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U.S. GOVERNMENT
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FEDERAL REGISTER

Vol. 86 Thursday

No. 81 April 29, 2021

Pages 22581–22832

OFFICE OF THE FEDERAL REGISTER

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Contents

Federal Register

Vol. 86, No. 81

Thursday, April 29, 2021

Agricultural Research Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22625

Agriculture Department
See Agricultural Research Service
See Federal Crop Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22625–22626

Air Force Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22637

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Financial History Questionnaire, 22705–22706

Antitrust Division
NOTICES
Proposed Final Judgment:
United States v. Intuit Inc., et al., 22706–22711

Architectural and Transportation Barriers Compliance Board
NOTICES
Performance Review Board Membership, 22626

Army Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22637–22638

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Variations in Implementation of Quality Interventions Project, 22667–22669

Civil Rights Commission
NOTICES
Meetings:
Montana Advisory Committee, 22626–22629
Rhode Island Advisory Committee, 22627
Washington Advisory Committee, 22628–22629

Coast Guard
RULES
Safety Zone:
Sabine River, Orange, TX, 22610–22612

Commerce Department
See Economic Development Administration
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Community Development Financial Institutions Fund
NOTICES
Funding Opportunity:
Small Dollar Loan Program; 2021 Funding Round, 22765–22780

Defense Department
See Air Force Department
See Army Department
See Engineers Corps
See Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22638–22639

Disability Employment Policy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
EARN Perspectives of Jobseekers With Disabilities: The Impact of Employer Messaging, 22711–22712

Economic Development Administration
NOTICES
Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance, 22629–22630

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for the Business and International Education Program, 22648–22649
Federal Student Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms, 22649–22650
Office of Special Education and Rehabilitative Services Peer Reviewer Data Form, 22650
Applications for New Awards:
Gaining Early Awareness and Readiness for Undergraduate Programs (Partnership Grants), 22650–22657
Gaining Early Awareness and Readiness for Undergraduate Programs (State Grants), 22642–22648
Privacy Act; Matching Program, 22640–22642

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22639–22640

Engraving and Printing Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Bureau of Engraving and Printing Background Information Request Form, 22780–22781

Environmental Protection Agency
RULES
Funding Availability:
Applications for Credit Assistance Under the State Infrastructure Finance Authority Water Infrastructure Finance and Innovation Act Program, 22617–22621
Applications for Credit Assistance Under the Water Infrastructure Finance and Innovation Act Program, 22612–22617
NOTICES
Thirty-Ninth Update of the Federal Agency Hazardous Waste Compliance Docket, 22659–22662

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus SAS Airplanes, 22584–22586
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Inspection Authorization Refresher Course Acceptance Form, 22758

Federal Communications Commission
RULES
All-Digital AM Broadcasting, Revitalization of the AM Radio Service, 22621–22622
Disruptions to Communications, 22796–22825
PROPOSED RULES
Television Broadcasting Services Eagle River, Wisconsin, 22624
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22662–22666

Federal Crop Insurance Corporation
RULES
Common Crop Insurance Regulations:
Forage Seeding Crop Insurance Provisions, 22581–22583

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 22666

Federal Energy Regulatory Commission
RULES
Western Electricity Coordinating Council Regional Reliability Standard BAL–002–WECC–3 (Contingency Reserve), 22588–22596
NOTICES
Scoping Period Requesting Comments on Environmental Issues:
ANR Pipeline Co.; Wisconsin Access Project, 22657–22659

Federal Maritime Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22666–22667

Federal Motor Carrier Safety Administration
NOTICES
Qualification of Drivers; Exemption Applications:
Hearing, 22764–22765
Vision, 22758–22764

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 22667

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Electronic User Fee Payment Request Forms, 22669–22671
Establishment and Operation of Clinical Trial Data Monitoring Committees, 22690–22692
Human Drug Compounding, Repackaging, and Related Activities, 22674–22678
Irradiation in the Production, Processing, and Handling of Food, 22688–22689
Medical Device Reporting, 22671–22674
Prescription Drug Advertising, 22686–22688
Modifications to the List of Recognized Standards:
Recognition List Number: 055, 22678–22686

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Meetings:
National Biodefense Science Board, 22693

Health Resources and Services Administration
NOTICES
Meetings:
Advisory Commission on Childhood Vaccines; Correction, 22692–22693

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection

Indian Affairs Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Indian Child Welfare Quarterly and Annual Report, 22700–22701
Environmental Impact Statements; Availability, etc.:
Chuckwalla Solar Projects on the Moapa River Indian Reservation, Clark County, NV; Correction, 22701
Indian Gaming:
Extension of Tribal-State Class III Gaming Compact (Rosebud Sioux Tribe and the State of South Dakota), 22701

Interior Department
See Indian Affairs Bureau
See Land Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
American Customer Satisfaction Index Government Customer Satisfaction Surveys, 22701–22703
Requests for Nominations:
Exxon Valdez Oil Spill Public Advisory Committee, 22703

Internal Revenue Service
NOTICES
Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G, 22781–22784

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Crystalline Silicon Photovoltaic Products From Taiwan, 22630–22633
Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia, 22633–22634
Export Trade Certificate of Review:
Florida Citrus Exports, L.C., 22630

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
See Antitrust Division
See National Institute of Corrections

Labor Department
See Disability Employment Policy Office
See Occupational Safety and Health Administration
See Wage and Hour Division
RULES
Tip Regulations Under the Fair Labor Standards Act; Delay of Effective Date, 22597–22610
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Permanent Employment Certification, 22714–22715
Center for Advancing Policy on Employment for Youth Data Collection, 22713–22714
Current Population Survey Disability Supplement, 22712–22713
Requirements of a Bona Fide Thrift or Savings Plan and Requirements of a Bona Fide Profit-Sharing Plan or Trust, 22713

Land Management Bureau
NOTICES
Meetings:
Application for Withdrawal; Nye County, Nevada, 22703–22704
Requests for Nominations:
Bureau of Land Management New Mexico Resource Advisory Councils, 22704–22705

National Institute of Corrections
NOTICES
Meetings:
Advisory Board, 22711

National Institute of Standards and Technology
NOTICES
Meetings:
Advisory Committee on Earthquake Hazards Reduction, 22634–22635

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 22695–22696
National Cancer Institute, 22694–22695
National Institute of Allergy and Infectious Diseases, 22693–22694
National Institute of Environmental Health Sciences, 22695–22696
National Institute of Neurological Disorders and Stroke, 22695
National Institute of Nursing Research, 22693

National Oceanic and Atmospheric Administration
RULES
Fisheries Off West Coast States:
Pacific Coast Groundfish Fishery; Salmon Bycatch Minimization, 22587–22588
West Coast Salmon Fisheries; Amendment 20 to the Pacific Coast Salmon Fishery Management Plan, 22622–22623
NOTICES
Meetings:
North Pacific Fishery Management Council, 22636–22637
Pacific Fishery Management Council, 22635–22636

National Science Foundation
NOTICES
Meetings:
Advisory Committee for Education and Human Resources, 22716

Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22640

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Methylene Chloride Standard, 22715–22716

Postal Regulatory Commission
NOTICES
Service Standard Changes, 22716–22725

Presidential Documents
EXECUTIVE ORDERS
Committees; Establishment, Renewal, Termination, etc.:
Worker Organizing and Empowerment, Task Force on; Establishment (EO 14025), 22827–22832

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 22734
Self-Regulatory Organizations; Proposed Rule Changes:
BOX Exchange LLC, 22728–22731
Cboe BZX Exchange, Inc., 22737–22741
Cboe EDGX Exchange, Inc., 22747–22750
Cboe Exchange, Inc., 22744–22747
Miami International Securities Exchange, LLC, 22734–22737
MIAX PEARL, LLC, 22731–22734
Nasdaq BX, Inc., 22741–22744
Nasdaq ISE, LLC, 22754–22757
New York Stock Exchange, LLC, 22725–22728
The Nasdaq Stock Market, LLC, 22750–22753

Small Business Administration
NOTICES
Major Disaster Declaration:
Commonwealth of Kentucky; Public Assistance Only, 22757–22758
Kentucky, 22757

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration

Treasury Department
See Community Development Financial Institutions Fund
See Engraving and Printing Bureau
See Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22784–22791
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Capital Magnet Fund Application and Performance Report, 22791–22792
Charter Renewal:
Treasury Borrowing Advisory Committee, Formerly Known as the Treasury Borrowing Advisory Committee of the Securities Industry and Financial Markets Association, 22792

U.S. Customs and Border Protection
NOTICES
Modifications to the Collections Process for Deferred Tax Payments on Consumption Entries of Distilled Spirits, Wines, and Beer Imported Into the United States, 22696–22700

Veterans Affairs Department
NOTICES
Meetings:
Geriatric and Gerontology Advisory Committee, 22792–22793

Wage and Hour Division
RULES
Tip Regulations Under the Fair Labor Standards Act; Delay of Effective Date, 22597–22610

Separate Parts In This Issue

Part II
Federal Communications Commission, 22796–22825

Part III
Presidential Documents, 22827–22832

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.

3 CFR

Executive Orders:

13845 (revoked by 14025) 22829
13931 (revoked by 14025) 22829
14025 22829

7 CFR

457 22581

14 CFR

39 22584

15 CFR

902 22587

18 CFR

40 22588

29 CFR

10 22597
531 22597
578 22597
579 22597
580 22597

33 CFR

165 22610

40 CFR

35 (2 documents) 22612, 22617

47 CFR

4 22796
73 22621

Proposed Rules:

73 22624

50 CFR

660 (2 documents) 22587, 22622

Rules and Regulations

Federal Register

Vol. 86, No. 81

Thursday, April 29, 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.

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket ID FCIC–20–0003]

RIN 0563–AC67

Common Crop Insurance Regulations; Forage Seeding Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Common Crop Insurance Regulations, Forage Seeding Crop Insurance Provisions. The intended effect of this action is to clarify that producers are able to purchase or change insurance coverage on spring seeded forage until the spring sales closing date if they did not plant any *insurable* fall seeded forage in the same crop year. The changes are to be effective for the 2022 and succeeding crop years.

DATES:

Effective date: This rule is effective April 29, 2021.

Comment date: We will consider comments that we receive on this rule until the close of business June 28, 2021. FCIC will consider these comments and make changes to the rule if warranted in a subsequent rulemaking.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FCIC–20–0003. Follow the instructions for submitting comments.
- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency, US Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205. In your comment, specify docket ID FCIC–20–0003.

Comments will be available for viewing online at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926–7829, email *Francie.Tolle@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. The Risk Management Agency (RMA) administers the FCIC regulations. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIPs) sell and service Federal crop insurance policies in every state through a public-private partnership. FCIC reinsures the AIPs who share the risk associated with catastrophic losses due to major weather events. FCIC's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

FCIC amends the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.151 Forage Seeding Crop Insurance Provisions, to be effective for the 2022 and succeeding crop years. This change resulted from public comments received on the final rule with request for comment, published in the **Federal Register** on April 30, 2020 at 83 FR 23893–23902.

Comments were received from 10 commenters. The commenters included persons or entities from the following categories: Farmer, trade association, insurance companies, and others. The public comments received regarding the final rule with request for comment and FCIC's responses to the comments are as follows:

Comment: Commenter suggested increased coverage in Arizona, California, Nevada, and Utah. They also suggested creating an insurance product that would allow producers to insure against forage quality losses and an insurance product that would allow producers to insure forage revenue losses.

Response: These issues were considered and researched by an independent contractor prior to the 2020 Final Rule. FCIC followed the recommendations of the contracted research to not implement these changes. FCIC will continue to work with industry groups concerning these items and others that may arise. FCIC will continue to analyze and consider recommendations from expert reviewers and Regional Office Subject Matter Experts when considering future changes.

Comment: Commenter expressed a concern about the cancellation date for spring seeded forage being nearly nine months prior to the sales closing date.

Response: The 9-month gap between the cancellation and sales closing dates is due to offering both fall seeded, and spring seeded coverage in a single county. FCIC will continue to encourage AIPs and agents to educate insureds on the different deadlines for making changes versus cancelling a policy.

Comment: Commenter provided some suggestions on the wording of the spring planted definition. They also noted spring and fall planted forage types were listed in the Special Provisions with final planting dates. They asked if these override the Crop Provision definition.

Response: The definition in the Crop Provisions refers to the Special Provisions. Therefore, the final planting dates listed in the Special Provisions work in conjunction with the Crop Provisions. The wording suggestions will be considered with any future changes to the Special Provisions.

Comment: Commenter asked for the term ''late harvest date'' to be defined since it is used in section 9 of the Crop Provisions.

Response: The term ''late harvest date'' refers to a date shown in the Special Provisions. The term will be clarified in the Special Provisions for the 2022 crop year.

Comment: Commenter stated the definition of replanting is contradictory of the ''good farming practices'' definition. They note seeding at a reduced seeding rate into a partially damaged forage stand is considered prudent and a ''good farming practice.'' The current definition negates that choice if a producer would like reimbursement for his cost of replanting the damaged acreage.

Response: The Final Rule changes did not impact how the policy treats planting into an existing stand at a reduced seeding rate. FCIC recognizes planting at a reduced seeding rate may be a good farming practice, but it is not eligible for a replanting payment.

Comment: Commenter notes the actuarial documents show basic and optional units are available in some counties. They note the qualification of optional units found in section 34(b)(3) says a producer must have acceptable records for at least the previous crop year for all optional units that are reported in the current year. They are questioning how a producer may become eligible for optional units since the Dollar Plan of insurance does not require acceptable records of production.

Response: The Final Rule did not change records requirements for electing optional units under the policy. The policy requires production records; however, the underwriting procedures in the Crop Insurance Handbook make it possible to have Optional Units without the need to have production records. Insureds may need production records for loss purposes.

Comment: Commenter suggests removing the 'Insurance Availability' statement from the Special Provisions since the wording mimics the same terms and conditions of subsection 7(b) of the Crop Provisions.

Response: The Special Provisions language clarifies the acreage must be ''intended for harvest''. FCIC will consider incorporating this phrase in future edits of subsection 7(b) of the Crop Provisions.

Comment: Commenter provided a variety of comments about the Replanting Payment section 11 of the Crop Provisions, but the underlying issues or suggestions were not clear.

Response: FCIC will reach out to the commenter to better understand if any changes are recommended.

Comment: Commenter notes contradicting verbiage between the definition of sales closing date and section 3(b)(1). The definition indicates if a producer has any insurable fall planted acreage then coverage could not be purchased on spring planted acreage prior to the spring sales closing date or make changes to any coverage. The wording in section 3(b)(1) indicates if a producer has any fall planted acreage (whether insurable or not) a producer cannot purchase coverage or make changes to any spring planted acreage.

Response: FCIC agrees this needs to be clarified and is revising the language with this Final Rule.

The intended effect of this action is to eliminate contradicting language between the ''Sales Closing Date'' definition and the ''Amounts of Insurance'' section.

The changes are as follows:

1. Section 3—FCIC is revising section 3, Amounts of Insurance, to clarify contradicting language between the ''Sales Closing Date'' definition and ''Amounts of Insurance'' sections. The ''Sales Closing Date'' definition specifies the fall planted acreage must be insurable but corresponding language in the ''Amounts of Insurance'' section does not specify whether the fall planted acreage is insurable or not, resulting in confusion that the fall sales closing date could be binding regardless of whether their fall planted acreage was insurable or uninsurable. The change will provide consistent language to indicate if a producer does not plant any ''insurable'' fall planted acreage, then they may purchase or revise their coverage on spring planted forage until the spring sales closing date.

Effective Date and Notice and Comment

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts for crop insurance policies and therefore falls within that exemption.

For major rules, the Congressional Review Act requires a delay the effective date of 60 days after publication to allow for Congressional review. This rule is not a major rule under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, this final rule is effective April 30, 2021. Although not required by APA or any other law, FCIC has chosen to request comments on this rule.

Executive Orders 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required under either Executive Order 12866 or 13563.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by SBREFA, generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as noted above, this rule is exempt from APA and no other law requires that a proposed rule be published for this rulemaking initiative.

Environmental Review

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions

of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

RMA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under E.O. 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, RMA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified in this rule are not expressly mandated by Congress.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments, or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Program

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic Assistance to which this rule applies is No. 10.450—Crop Insurance.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

Final Rule

For the reasons discussed in the preamble, FCIC amends 7 CFR part 457 as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 2. Amend § 457.151 by:

■ a. In the introductory text removing ''2021'' and adding ''2022'' in its place;

■ b. In section 3 revising paragraph (b)(1).

The revision reads as follows:

§ 457.151 Forage seeding crop insurance provisions.

* * * * *

■ 3. Amounts of Insurance.

* * * * *

(b) * * *

(1) If you do not have any insurable fall planted acreage, you may purchase or revise your coverage for your spring planted acreage until the spring sales closing date;

* * * * *

Richard H. Flournoy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2021–08953 Filed 4–27–21; 11:15 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0345; Project Identifier MCAI–2021–00479–T; Amendment 39–21537; AD 2021–10–04]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A318, A319, A320, and A321 series airplanes. This AD was prompted by a potential quality issue in the fuel pump that includes a locking key of the impeller drive shaft found loose in the cavity under the impeller. This AD requires replacement of affected fuel pumps, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective April 29, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 29, 2021.

The FAA must receive comments on this AD by June 14, 2021.

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

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

For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0345.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0345; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2021–0115–E, dated April 23, 2021 (EASA AD 2021–0115–E) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A318, A319, A320, and A321 series airplanes. Model A320–215 airplanes, which are listed in the applicability of EASA AD 2021–0115–E, are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This AD was prompted by the identification of a potential quality issue found in the fuel pump that includes a locking key of the impeller drive shaft found loose in the cavity under the impeller. Incorrect installation of the locking key combined with a pump operation not fully immersed in fuel could compromise the fuel pump integrity. The FAA is issuing this AD to address this condition, which, in the case of operating a pump while not fully immersed in fuel, could create an ignition source in the fuel tank, and result in a fuel tank explosion and consequent loss of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0115–E specifies procedures for replacement of affected fuel pumps. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2021–0115–E described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

The service information referenced in EASA AD 2021–0115–E includes a number of ''RC'' (required for compliance) steps. This AD, however, does not require those RC steps, and requires that the replacement be done as specified in paragraph (h)(2) of this AD.

The service information referenced in EASA AD 2021–0115–E specifies reporting certain information and sending affected fuel pumps to the manufacturer. Those actions are not required by this AD, although the FAA recommends that those actions be performed as identified in the service information.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2021–0115–E is incorporated by reference in this final rule. This AD,

therefore, requires compliance with EASA AD 2021–0115–E in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2021–0115–E that is required for compliance with EASA AD 2021–0115–E is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0345.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because of a potential quality issue in the fuel pump, including a locking key of the impeller drive shaft that was found loose in the cavity under the impeller. This condition, if combined with a pump operating while not fully immersed in fuel, could create an ignition source in the fuel tank. Operating with a combination of these conditions could result in a fuel tank explosion and consequent loss of the airplane. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0345; Project Identifier MCAI–2021–00479–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 1,728 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$*	$510	$881,280

* According to the manufacturer, all parts costs of this AD are covered under warranty.

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

Authority for This Rulemaking

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

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

develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–10–04 Airbus SAS: Amendment 39–21537; Docket No. FAA–2021–0345; Project Identifier MCAI–2021–00479–T.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 29, 2021.

(b) Affected ADs

None.

(c) Applicability

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

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

(2) All Model A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A319–151N, A319–153N, and A319–171N airplanes.

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

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

(d) Subject

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

(e) Reason

This AD was prompted by a potential quality issue in the fuel pump that includes a locking key of the impeller drive shaft found loose in the cavity under the impeller. The FAA is issuing this AD to address this condition, which, if combined with a pump operating while not fully immersed in fuel, could create an ignition source in the fuel tank, and result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) Emergency AD 2021–0115–E, dated April 23, 2021 (EASA AD 2021–0115–E).

(h) Exceptions to EASA AD 2021–0115–E

(1) Where EASA AD 2021–0115–E refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2021–0115–E specifies a method of accomplishment of certain actions, replace the text ''in accordance with the instructions of the AOT [Alert Operators Transmission]'' with ''in accordance with paragraph 4.2 of the AOT.''

(3) Where paragraph (2) of EASA AD 2021–0115–E allows deferring the replacement ''in accordance with . . . Airbus DOA,'' this AD requires that those instructions be approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(4) The ''Remarks'' section of EASA AD 2021–0115–E does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0115–E specifies to submit certain information and return affected pumps to the manufacturer, this AD does not require those actions.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

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

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2021–0115–E, dated April 23, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0115–E, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0345.

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

Issued on April 27, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–09082 Filed 4–27–21; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 660

[Docket No. 210423–0087]

RIN 0648–BJ50

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Salmon Bycatch Minimization

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

ACTION: Final rule; date of effectiveness for collection-of-information requirements.

SUMMARY: NMFS announces approval by the Office of Management and Budget (OMB) of collection-of-information requirements, which were contained in regulations to allow a Pacific whiting sector cooperative or group of vessels to develop a Salmon Mitigation Plan (SMP), in a final rule published on February 23, 2021. The intent of this rule is to inform the public of the effectiveness of the collection-of-information requirements associated with the submission and reporting requirements included in the February 23, 2021 final rule.

DATES: This rule is effective April 29, 2021.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. Attn: Brian Hooper, and to *www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: Brian Hooper, phone: (206) 526–6117, or email: *brian.hooper@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Washington, Oregon, and California under the Pacific Coast Groundfish Fishery Management Plan. The Pacific Fishery Management Council prepared this fishery management plan under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the Magnuson-Stevens Act are located at 50 CFR parts 600 and 660.

Background

On February 23, 2001, NMFS published in the **Federal Register** a final rule (86 FR 10857) allowing a Pacific whiting sector cooperative or group of vessels to develop an SMP to promote reduction in Chinook salmon bycatch. The rule also established that vessels with a NMFS-approved SMP have access to the Chinook salmon bycatch reserve regardless of NMFS implementing other inseason measures to minimize salmon bycatch. The associated regulations are found at 50 CFR part 660. OMB approved the collection-of-information requirements contained in the final rule on March 10, 2021, under OMB Control Number 0648–0794 (Pacific Coast Groundfish Salmon Bycatch Minimization). Accordingly, this rule announces the OMB approval and effective date of the submission and reporting requirements for vessels seeking NMFS approval of an SMP and for vessels with an approved SMP found at 50 CFR 660.113(e).

OMB Revisions to PRA References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the Paperwork Reduction Act (PRA) requires that agencies inventory and display a current control number, assigned by the Director of the OMB, for each agency's information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule adds collection-of-information requirements, 15 CFR 902.1(b) is revised to correctly reference the sections resulting from this final rule.

2021 Deadline To Submit an SMP for NMFS Approval

Pacific whiting cooperatives or groups of vessels must submit any SMP proposals to NMFS by June 28, 2021 in order for NMFS to consider approving the SMP for use in 2021.

Classification

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity for public comment for this action because notice and comment would be unnecessary and contrary to the public interest. This action simply provides notice of OMB's approval of the reporting requirements at issue, which has already occurred, and renders those requirements effective. Thus, this action does not involve any further exercise of agency discretion by NMFS or OMB. Moreover, the public has had prior notice and the opportunity to comment on the collection-of-information requirements. NMFS published a proposed rule including the collection-of-information requirements (85 FR 66519; October 20, 2020), with comments accepted until November 19, 2020. An additional opportunity for public comment at this point would not be meaningful and would be duplicative. It would also be contrary to the public interest because delaying the notice of the effectiveness of the collection-of-information requirements could delay the public having notice that they can submit SMP applications.

For the reasons above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this rule effective immediately upon publication.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This final rule contains collection-of-information requirements subject to the PRA and which OMB approved under OMB Control Number 0648–0794 on March 10, 2021. The public reporting burden for the submission of SMPs and post-season reports includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. NMFS estimates receiving up to six SMP proposals, six SMP post-season reports, and one amended SMP, per year over the next three years. NMFS estimates receiving one administrative appeal for a disapproved SMP over the next three years. Public reporting burden is estimated to average 10 hours per response for the SMP proposal, 3 hours per response for an amended SMP, 6 hours per response for an administrative appeal of a disapproved SMP, and 8 hours per response for the SMP post-season report.

Send comments on the burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS West Coast Region (see **ADRESSES**), and at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by using the search function and entering either the title of the collection or the OMB Control Number 0648–0794.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be

subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 660

Fisheries, Fishing, Indians, Recreation and recreation areas, Reporting and recordkeeping requirements, Treaties.

Dated: April 23, 2021.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', revise the entry for ''660.113'' to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
660.113	–0271, –0573, –0618, –0619, –0737 and –0794
* * * * *	

* * * * *

[FR Doc. 2021–08926 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM19–20–000]

WECC Regional Reliability Standard BAL–002–WECC–3 (Contingency Reserve)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final action.

SUMMARY: The Federal Energy Regulatory Commission (Commission) approves regional Reliability Standard BAL–002–WECC–3 (Contingency Reserve) submitted jointly by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization, and the Western Electricity Coordinating Council (WECC). In addition, the Commission directs NERC and WECC to submit an informational filing.

DATES: This final action is effective June 28, 2021.

FOR FURTHER INFORMATION CONTACT: Susan Morris (Technical Information), Office of Electric Reliability, Division of Operations and Planning Standards, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (202) 502–6803, *Susan.Morris@ferc.gov.*

Syed Ahmad (Technical Information), Office of Electric Reliability, Division of Operations and Planning Standards, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (202) 502–8718, *Syed.Ahmad@ferc.gov.*

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SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA), the Commission approves regional Reliability Standard BAL–002–WECC–3 (Contingency Reserve). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), and Western Electricity Coordinating Council (WECC) jointly submitted the regional Reliability Standard to the Commission for approval. Additionally, as discussed below, the Commission directs NERC and WECC to submit an informational filing 30 months following implementation of regional Reliability Standard BAL–002–WECC–3.

2. Regional Reliability Standard BAL–002–WECC–3 applies to balancing authorities and reserve sharing groups in the Western Interconnection, and it specifies the quantity and types of contingency reserves required to ensure reliability under normal and abnormal conditions.[1] Regional Reliability Standard BAL–002–WECC–3 eliminates Requirement R2 from the prior version because, as discussed in the joint petition, the implementation of the continent-wide Reliability Standard BAL–003–1.1 (Frequency Response and Frequency Bias Setting), Requirement R1 makes Requirement R2 redundant.[2] Based on Requirement R1 of the continent-wide Reliability Standard BAL–003–1.1 and the results of field tests NERC and WECC conducted to assess the potential impact of the retirement of regional Reliability Standard BAL–002–WECC–2a, Requirement R2 on contingency reserves in the Western Interconnection, the Commission approves regional Reliability Standard BAL–002–WECC–3 and the retirement of the currently-effective version of the regional Reliability Standard.

3. In addition, as proposed in the notice of proposed rulemaking (NOPR), the Commission believes it is appropriate to monitor the potential impacts of retiring Requirement R2 to ensure that this action does not adversely impact the adequacy of contingency reserves in the Western Interconnection.[3] Therefore, as discussed below, the Commission directs NERC and WECC to submit an informational filing 30 months following implementation of regional Reliability Standard BAL–002–WECC–3 that addresses the adequacy of contingency reserves in the Western Interconnection.

I. Background

A. Section 215 and Regional Reliability Standards

4. Section 215 of the FPA requires a Commission-certified ERO to develop

[1] Reserve sharing group is defined in the Glossary of Terms Used in NERC Reliability Standards (NERC Glossary) as, ''[a] group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each Balancing Authority's use in recovering from contingencies within the group. . . .''

[2] Reliability Standard BAL–003–1.1, Requirement R1 became effective on April 1, 2016.

[3] *WECC Regional Reliability Standard BAL–002–WECC–3* (*Contingency Reserve*), Notice of Proposed Rulemaking, 85 FR 68809 (Oct. 30, 2020), 173 FERC ¶ 61,032, at P 3 (2020) (NOPR).

mandatory and enforceable Reliability Standards that are subject to Commission review and approval.[4] Once approved, the Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.[5]

5. A Regional Entity may develop a regional Reliability Standard for Commission approval to be effective in that region only.[6] In Order No. 672, the Commission stated that as a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) A regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.[7]

While a Regional Entity may propose regional Reliability Standards that address specific, unique regional conditions and circumstances, such regional Reliability Standards can be retired if those justifications are no longer relevant. Accordingly, the Commission may approve retirement of a more stringent regional requirement ''if the Regional Entity demonstrates that the continent-wide Reliability Standard is sufficient to ensure the reliability of that region.'' [8]

B. Regional Reliability Standard BAL–002–WECC–2

6. On November 21, 2013, the Commission approved regional Reliability Standard BAL–002–WECC–2, specifying the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.[9] Regional Reliability Standard BAL–002–WECC–2 is more stringent than continent-wide Reliability Standard BAL–002–1 because the regional Reliability Standard requires applicable entities to restore contingency reserve within 60 minutes following an event requiring the activation of contingency reserve, 30 minutes less than the 90 minutes allowed by the continent-wide Reliability Standard.[10] In addition, the method for calculating minimum contingency reserve in the regional Reliability Standard is more stringent than Requirement R3.1 in Reliability Standard BAL–002–1, because it requires minimum contingency reserve levels that will be at least equal to the Reliability Standard minimum (*i.e.,* equal to the most severe single contingency) and more often will be greater.[11]

C. Reliability Standard BAL–003–1

7. Reliability Standard BAL–003–1 (Frequency Response and Frequency Bias Setting) addressed Commission directives, during the approval of Reliability Standard BAL–003–0 (Frequency Response and Bias), issued in Order No. 693.[12] The Commission directed NERC to modify Reliability Standard BAL–003–0 to ''define[ ] the necessary amount of Frequency Response needed for Reliable Operation of each balancing authority with methods of obtaining and measuring that the frequency response is achieved.'' [13] On January 16, 2014, the Commission approved continent-wide Reliability Standard BAL–003–1.[14] The Commission explained that Reliability Standard BAL–003–1 defines the amount of frequency response needed from balancing authorities to maintain Interconnection frequency within predefined bounds, and includes requirements for the measurement and provision of frequency response. In particular, Order No. 794 determined that Reliability Standard BAL–003–1 ''establishes a minimum Frequency Response Obligation for each balancing authority; provides a uniform calculation of frequency response; establishes Frequency Bias Settings that are closer to actual balancing authority frequency response; and encourages coordinated automatic generation control operation.'' [15]

D. NERC and WECC Joint Petition

8. On September 6, 2019, NERC and WECC submitted a joint petition seeking approval of proposed regional Reliability Standard BAL–002–WECC–3, the associated violation risk factors and violation severity levels, effective date, and implementation plan.[16] The joint petition also requests retirement of the currently-effective regional Reliability Standard BAL–002–WECC–2a.

9. In the joint petition, NERC and WECC explain that the principal modification in the proposed regional Reliability Standard is the retirement of Requirement R2 in currently-effective regional Reliability Standard BAL–002–WECC–2a. Requirement R2 provides that balancing authorities and reserve sharing groups in the WECC Region ''shall maintain at least half of its minimum amount of Contingency Reserve identified in Requirement R1, as Operating Reserve—Spinning.'' NERC and WECC maintain that the 50 percent minimum contingency reserve amount was carried forward from the Reliability Management System of WECC's predecessor, the Western Systems Coordinating Council, and is no longer relevant.

10. NERC and WECC contend that continent-wide Reliability Standard BAL–003–1.1 ''helps ensure that sufficient Frequency Response is

[4] 16 U.S.C. 824o.

[5] 16 U.S.C. 824o(e).

[6] 16 U.S.C. 824o(e)(4). A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO. *See* 16 U.S.C. 824o(a)(7) and (e)(4). On April 19, 2007, the Commission accepted delegation agreements between NERC and eight Regional Entities, including WECC. *North American Electric Reliability Corp.,* 119 FERC ¶ 61,060, *order on reh'g,* 120 FERC ¶ 61,260 (2007).

[7] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards,* Order No. 672, 71 FR 8662 (Feb. 17, 2006), 114 FERC ¶ 61,104, at P 291, *order on reh'g,* Order No. 672–A, 71 FR 19814 (April 18, 2006), 114 FERC ¶ 61,328 (2006).

[8] *Version One Regional Reliability Standard for Resource and Demand Balancing,* Order No. 740, 75 FR 65964 (Oct. 27, 2010), 133 FERC ¶ 61,063, P 30 (2010).

[9] *Regional Reliability Standard BAL–002–WECC–2,* Order No. 789, 145 FERC ¶ 61,141 (2013). On January 24, 2017, by delegated letter order, the Commission approved regional Reliability Standard BAL–002–WECC–2a, which added an interpretation to Requirement R2. *North American Electric Reliability Corporation,* Docket. No. RD17–3–000 (Jan. 24, 2017) (delegated order).

[10] Reliability Standard BAL–002–3, approved on September 25, 2018, is the current version of the continent-wide Reliability Standard. *North American Electric Reliability Corp.,* Docket No. RD18–7–000 (Sep. 25, 2018) (delegated letter order).

[11] Order No. 789, 145 FERC ¶ 61,141 at P 26.

[12] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, 72 FR 16416 (April 4, 2007), 118 FERC 61,218, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053, at P 375 (2007).

[13] *Id.*

[14] *Frequency Response and Frequency Bias Setting Reliability Standard,* Order No. 794, 79 FR 3723 (Jan. 23, 2014), 146 FERC ¶ 61,024 (2014). Reliability Standard BAL–003–1.1 was subsequently approved by delegated letter order on November 13, 2015 and contained non-substantive changes over the prior version, Reliability Standard BAL–003–1. *North American Electric Reliability Corp.,* Docket No. RD15–6–000 (Nov. 13, 2015) (delegated order). Reliability Standard BAL–003–2 was approved by delegated order on July 15, 2020 with modifications in Attachment A (BAL–003–2 Frequency Response and Frequency Bias Setting Standard Supporting Document), which addresses the establishment of the Interconnection frequency response obligation. The requirements in Reliability Standard BAL–003–2 are identical to the previous version, Reliability Standard BAL–003–1.1. *North American Electric Reliability Corp.,* Docket No. RD20–9–000 (Jul. 15, 2020) (delegated order).

[15] Order No. 794, 146 FERC ¶ 61,024 at P 22.

[16] Regional Reliability Standard BAL–002–WECC–3 is not attached to this final action. The regional Reliability Standard is available on the Commission's eLibrary document retrieval system in the identified docket and on the NERC website, *www.nerc.com.*

provided to maintain Interconnection frequency in support of the reliable operation of the Interconnection,'' and therefore renders regional Reliability Standard BAL–002–WECC–2a, Requirement R2 ''redundant and no longer needed for reliability in the Western Interconnection.'' [17] NERC and WECC assert that Reliability Standard BAL–003–1.1 ''addresses the same frequency response components covered in currently effective Regional Reliability Standard BAL–002–WECC–2a Requirement R2 but in a results-based manner.'' [18]

11. In particular, NERC and WECC state that Reliability Standard BAL–003–1.1, Requirement R1 requires that balancing authorities (or groups of balancing authorities known as frequency response sharing groups) ''achieve an annual Frequency Response Measure that is equal to or more negative than its Frequency Response Obligation to ensure that it is providing sufficient Frequency Response.'' [19] Moreover, NERC and WECC explain that retention of the regional minimum operating reserve—spinning requirement, alongside the continent-wide frequency response requirement, could lead to confusion and the procurement of more spinning reserves than necessary for entities to meet their frequency response obligation, thereby increasing costs without providing additional reliability benefits.[20]

12. NERC and WECC also state that to evaluate the potential reliability impacts of retiring Requirement R2, WECC conducted a field test from May 1, 2017 through April 30, 2018, obtaining data from each balancing authority and each reserve sharing group. [21] NERC and WECC explain that the field test measured the effect of retiring Requirement R2 using two metrics: Disturbance control standard (DCS) performance and frequency response in the Western Interconnection.[22] The first metric measured, for each reportable DCS event,[23] whether an entity was unable to meet the contingency event recovery period. The second metric monitored system performance for any loss of resources greater than 700 MW and for any adverse effects on frequency response.[24]

13. NERC and WECC assert that ''analysis of the data demonstrates that all 66 DCS events occurring during the field test period had a 100 percent pass rate, showing no degradation to DCS performance. Entities carried and deployed enough reserves for post disturbance Area Control Area recovery.'' [25] NERC and WECC also note that the 2018 NERC State of Reliability Report indicates that frequency response performance ''did not degrade in the Western Interconnection during the field test period.'' [26]

14. Notwithstanding the elimination of Requirement R2, NERC and WECC assert that proposed regional Reliability Standard BAL–002–WECC–3 retains the other existing requirements because they are needed to maintain reliability and ''continue[ ] to represent a more stringent set of requirements for entities in the Western Interconnection than those found in the continent-wide disturbance control standard, Reliability Standard BAL–002–3.'' [27]

15. To supplement the field test data provided in the joint petition, on February 18, 2020, the Director of the Office of Electric Reliability issued a data request to NERC and WECC seeking: (1) Data for the remainder of the field test term not provided in the joint petition (*i.e.,* from May 1, 2018 to September 30, 2019); and (2) supporting data for NERC's frequency response metric (Metric M–4) pertaining to the Western Interconnection during the field test period (*i.e.,* from May 1, 2017 to September 30, 2019). In addition, NERC and WECC were asked to provide the amount of spinning reserve above or below 50 percent during non-event times on an hourly basis from the beginning of the field test period (May 1, 2017) through September 30, 2019.[28]

16. On May 18, 2020, NERC and WECC submitted data in response to the February 18 data request, indicating results that were generally consistent with the results presented in the field test report. The additional data provided a complete record for the joint petition.

E. Notice of Proposed Rulemaking

17. On October 30, 2020, the Commission issued a NOPR proposing to approve regional Reliability Standard BAL–002–WECC–3 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.[29] In addition, the Commission proposed to direct NERC and WECC to submit an informational filing 27 months following implementation of the proposed regional Reliability Standard, stating that it is ''appropriate in this case to monitor the potential impacts of retiring Requirement R2 on the adequacy of contingency reserves in the Western Interconnection.'' [30] The proposed informational filing would require NERC and WECC to provide an analysis of 24 months of data pertaining to the amount and deliverability of contingency reserves following implementation of the proposed regional Reliability Standard to monitor the potential reliability impacts of retiring Requirement R2 on the adequacy of contingency reserves in the Western Interconnection.

18. In response to the NOPR, the Commission received four sets of comments from NERC and WECC, jointly; Northwest Power Pool Reserve Sharing Group (NWPP RSG); Bonneville Power Administration (BPA); and Southwest Reserve Sharing Group (SRSG). All commenters support the approval of regional Reliability Standard BAL–002–WECC–3. In addition, all commenters raise issues regarding the timing and need for an informational filing, and whether data from individual balancing authorities, as opposed to aggregated data from the reserve sharing group they participate in, is necessary. We address below the issues raised by commenters.

[17] Joint Petition at 4.

[18] *Id.* at 13.

[19] *Id* at 4.

[20] *Id.* at 12–13.

[21] *Id.* at 13. A report containing the results of the field test is appended to the joint petition as Exhibit C. Joint Petition, Exhibit C (Field Test Results, WECC–0115 BAL–002–WECC–2a Request to Retire Requirement R2).

[22] Disturbance control standard is defined in the NERC Glossary as, ''[t]he reliability standard that sets the time limit following a Disturbance within which a Balancing Authority must return its Area Control Error to within a specified range.'' *See also* Joint Petition, Exhibit C at 5.

[23] We understand the reference to ''reportable DCS event'' in the joint petition corresponds to the NERC Glossary term ''Reportable Balancing Contingency Event'' that appears in Reliability Standard BAL–002–3. The NERC Glossary defines Reportable Balancing Contingency Event as: ''[a]ny Balancing Contingency Event occurring within a one-minute interval of an initial sudden decline in ACE based on EMS scan rate data that results in a loss of MW output less than or equal to the Most Severe Single Contingency, and greater than or equal to the lesser amount of: (i) 80% of the Most Severe Single Contingency, or (ii) the amount listed below for the applicable Interconnection. Prior to any given calendar quarter, the 80% threshold may be reduced by the responsible entity upon written notification to the Regional Entity. (Eastern Interconnection—900 MW, Western Interconnection—500 MW, ERCOT—800 MW, and Quebec—500 MW).''

[24] Joint Petition at 13–14.

[25] *Id.* at 14.

[26] *Id.* at 15.

[27] *Id.* at 10.

[28] According to Measure M2, ''Each Balancing Authority and each Reserve Sharing Group will have dated documentation that demonstrates it maintained at least half of the Contingency Reserve identified in Requirement R1 as Operating Reserve—Spinning, averaged over each Clock Hour, that met both of the reserve characteristics identified in Requirement R2, Part 2.1 and Requirement R2, Part 2.2.''

[29] *WECC Regional Reliability Standard BAL–002–WECC–3* (*Contingency Reserve*), NOPR, 173 FERC ¶ 61,032.

[30] *Id.* at P 3.

II. Discussion

19. Pursuant to FPA section 215(d)(2), the Commission approves WECC regional Reliability Standard BAL–002–WECC–3 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. For applicable entities in the Western Interconnection, regional Reliability Standard BAL–002–WECC–3 eliminates the requirement in the currently-effective version that at least half of the minimum amount of contingency reserve shall be Operating Reserve—Spinning that meets certain reserve characteristics. The justification set forth in the joint petition combined with the field test results support NERC and WECC's contention that the continent-wide Reliability Standard BAL–003–1.1 renders the existing 50 percent Operating Reserve—Spinning obligation redundant. Additionally, regional Reliability Standard BAL–002–WECC–3, even without Requirement R2, will continue to provide protections beyond those contained in the continent-wide disturbance control Reliability Standard BAL–002–3.

20. We discuss below the following issues raised by commenters: (A) The need for an informational filing; (B) an extension of time to submit the informational filing; and (C) submission of individual balancing authority data.

A. Need for Informational Filing

1. NOPR

21. In the NOPR, the Commission proposed to direct NERC and WECC to submit an informational filing following the implementation of regional Reliability Standard BAL–002–WECC–3. The NOPR proposed that the informational filing contain for a 24-month period after implementation of the regional Reliability Standard the following categories of data: (1) For any reportable balancing contingency event, the date, time and required amount of contingency reserves at the time of the event, the actual amount of Operating Reserves—Spinning at the time of the event, and the actual DCS performance; (2) for events involving a loss of 700 MW or greater, whether it is a reportable balancing contingency event or not, the date and time of the event, the name of the resource(s), and the total MW; (3) the amount of spinning reserve above or below 50 percent during non-event times on an hourly basis for twenty-four months following implementation; and (4) supporting data for NERC's frequency response metric (Metric M–4) as it pertains to the Western Interconnection. The NOPR indicated that the informational filing was necessary to monitor the reliability impacts that the retirement of regional Reliability Standard BAL–002–WECC–2a, Requirement R2 may have on contingency reserves in the Western Interconnection.

22. In addition to the data categories identified above, the NOPR proposed that NERC and WECC provide: (1) The DCS performance—as described in request (1) in the paragraph above—on an individual balancing authority basis; and (2) the hourly amount of contingency reserve and the fraction of that contingency reserve that is classified as spinning for each hour by balancing authority (not reserve sharing group).[31] The NOPR stated that this data is necessary to assess the amount of contingency reserves held by each balancing authority within a reserve sharing group, because the contingency reserve data provided for a reserve sharing group are the aggregated sum of the contingency reserves of the participating balancing authorities.

2. Comments

23. SRSG supports requiring an informational filing, and NERC/WECC do not oppose an informational filing. BPA and NWPP RSG, however, maintain that the proposed informational filing is not necessary to understand the impacts of retiring Requirement R2. BPA and NWPP RSG contend that WECC has ''provided similar data to the Commission for the past two years . . . [and] the data already submitted shows that BAL–002–WECC–3 will not have adverse effects on Contingency Reserves in the Western Interconnection.'' [32]

3. Commission Determination

24. As explained in the NOPR, it is important to monitor the reliability impacts that the retirement of Requirement R2 may have on contingency reserves in the Western Interconnection.[33] We agree that the data already provided to the Commission supports the retirement of Requirement R2 from the currently-effective Reliability Standard. However, we believe that a post-implementation informational filing is a prudent measure to confirm that the retirement of Requirement R2 from the existing regional Reliability Standard has not resulted in any unexpected, adverse impacts on contingency reserves.[34]

B. Extension of Time To Submit Informational Filing

1. NOPR

25. In the NOPR, the Commission proposed to direct NERC and WECC to submit the informational filing 27 months following implementation of regional Reliability Standard BAL–002–WECC–3.

2. Comments

26. NERC and WECC contend that the 27-month deadline proposed in the NOPR is insufficient because it provides NERC and WECC with only three months to analyze the 24 months of data before submitting the informational filing. Therefore, NERC and WECC seek an additional three months, or a 30-month deadline for submission of the informational filing. NERC and WECC reiterate that they would, under any circumstances, promptly make the Commission aware of any adverse impacts resulting from the retirement of Requirement R2 prior to submission.

3. Commission Determination

27. Based on NERC and WECC's concern that the 27-month deadline proposed in the NOPR provides them with only three months to analyze the data and submit the informational filing, we will extend the deadline for submission of the informational filing by an additional three months. Accordingly, we direct NERC and WECC to submit the informational filing 30 months following implementation of regional Reliability Standard BAL–002–WECC–3.

C. Submission of Individual Balancing Authority Data

1. NOPR

28. As described above, the NOPR proposed that NERC and WECC provide certain data on a balancing authority level in the informational filing.

[31] As clarified in the discussion below, member balancing authorities should report for those events that meet the Reportable Balancing Contingency Event threshold for their respective reserve sharing groups. In addition, the contingency event recovery data can specify individual member balancing authority contingency reserve data plus contingency reserves from the reserve sharing group, if any.

[32] BPA Comments at 2; *see also* NWPP RSG Comments at 3.

[33] NOPR, 173 FERC ¶ 61,032 at P 19.

[34] *See Real Power Balancing Control Performance Reliability Standard,* Order No. 810, 80 FR 22395 (Apr. 22, 2015), 151 FERC ¶ 61,048, at P 20 (2015) (directing an informational filing to assess the impact of implementing Reliability Standard BAL–001–2); *see also* Order No. 794, 146 FERC ¶ 61,024 at P 60 (directing entities to report on resources available to each balancing authority and Frequency Response Sharing Group to meet its Frequency Response Obligation because the ''new methodology for determining the Frequency Response Obligation and the results when applied are not yet known . . . [and] the ability of balancing authorities and Frequency Response Sharing Groups to meet the obligation is untested.'').

2. Comments

29. All four commenters raise concerns with the NOPR's proposal to require certain data to be submitted by individual balancing authority. NERC and WECC caution that analyzing data on a balancing authority basis ''may not present a complete and accurate picture of conditions in the Western Interconnection.'' [35] NERC and WECC explain that a U.S.-based balancing authority ''may, through a Reserve Sharing Group, rely on spinning reserves carried by a Balancing Authority that is located outside the United States . . . [thus] NERC and WECC may only be able to provide U.S. Balancing Authority information and Reserve Sharing Group information that represents only the U.S. portion of the Reserve Sharing Group.'' [36]

30. SRSG asserts that reserve sharing group data provides ''sufficient information to address adequacy of contingency reserves and the impact of the retirement of R2 on reliability, particularly when coupled with an analysis of BAL–003 and M4 events.'' [37] BPA adds that reporting by reserve sharing group ''ensures that the Commission receives an accurate depiction of the adequacy of Contingency Reserves for the Western Interconnection.'' [38] BPA states that ''[r]equiring data on an individual Balancing Authority level may skew the data, as each Balancing Authority may appear deficient, even though the Reserve Sharing Group met its obligation to provide Contingency Reserves to its members.'' [39] BPA also contends that reporting data at the balancing authority level would impose an additional burden without any corresponding benefit.

31. In response to the NOPR's concerns regarding deliverability of contingency reserves in the Western Interconnection, NWPP RSG states that it addresses deliverability of contingency reserves among its participants through a well-documented operating process, the Northwest Power Pool Reserve Sharing Program Documentation. According to NWPP RSG, the program addresses how balancing authority members can access contingency reserves through an automated Reserve Sharing Computer System that has direct communication to their data and related deployment signals between the computer system and each participating balancing authority. The program defines eight reserve sharing zones in the NWPP RSG area, assigning each a contingency reserve obligation based on constrained inter-zone transmission facilities. When a participating balancing authority is separated from the remaining balancing authorities due to constrained transmission facilities, the effect of the constraint is reflected in the establishment of each reserve sharing zone's contingency reserve obligation.[40]

32. NWPP RSG contends that the price spike event in March 2019, referenced in the NOPR, did not cause any contingency reserve issues and there was no deliverability issue related to hydroelectric resources. Further, NWPP RSG states that since the inception of the NWPP reserve sharing program in 2001 and the beginning of mandatory compliance related to the disturbance contingency recovery period in 2007, the NWPP RSG has never failed in event recovery.[41]

33. In addition, NWPP RSG and BPA maintain that the request for information by balancing authority is inconsistent with regional Reliability Standard BAL–002–WECC–3, because balancing authorities are not required to meet DCS recovery or carry contingency reserves. Rather, NWPP RSG states that it has an obligation to meet DCS recovery from a balancing contingency event among its participants under Reliability Standard BAL–002–3. Further, NWPP RSG asserts that balancing authority and reserve sharing group area control error (ACE) measurements differ and, therefore, relying on balancing authority ACE to assess reliability could be misleading. Accordingly, NWPP RSG states that the Commission should clarify the Contingency Event Recovery Period reported by the balancing authority should use the reserve sharing group's ACE values.[42]

34. NWPP RSG also asserts that, because the NERC definition of a Reportable Balancing Contingency Event applies to the responsible entity (the reserve sharing group under Reliability Standard BAL–002–WECC–3), balancing authority members of a reserve sharing group are not the responsible entity. Therefore, each balancing authority should only report for those events that meet the Reportable Balancing Contingency Event threshold for its reserve sharing group.[43]

3. Commission Determination

35. We adopt the NOPR proposal for NERC and WECC to include certain balancing authority-level data in their informational filing. As explained below, we are not persuaded by the comments that oppose the Commission obtaining balancing authority-level data.

36. As explained in the NOPR, obtaining balancing authority-level data will provide the Commission with an understanding of the amount of contingency reserves held by each balancing authority within a reserve sharing group. Although commenters raise concerns that the Commission may misuse or misinterpret the balancing authority-level data, we clarify that the Commission has not proposed and does not intend to use such data for any purpose other than to better understand how contingency reserves are apportioned within reserve sharing groups. The Commission has not proposed and does not intend, for example, to use such data for any compliance purpose or to direct the development of new or modified Reliability Standards.

37. Similarly, we do not agree with the concern that the Commission could misinterpret or draw the wrong conclusions from balancing authority-level data for purposes outside of compliance or development of Reliability Standards. We fully understand that contingency reserves are not equally apportioned within reserve sharing groups, and any conclusions drawn from the informational filing will also consider relevant reserve sharing group data and any analysis of such data that may be provided by NERC and WECC. To be clear, we do not intend to base our understanding of contingency reserves in the Western Interconnection solely, or even primarily, on balancing authority-level data. Moreover, to address NERC and WECC's concern that reporting on United States-based balancing authorities could present an incomplete picture by excluding Canadian balancing authorities, we clarify that NERC and WECC can identify and explain in the informational filing any discrepancies in the data resulting from some reserve sharing group member balancing authorities being located outside the United States.

38. To address certain questions raised in the comments, we clarify certain aspects of the balancing authority-portion of the informational filing directed in this final action. First, we clarify that the member balancing authority data portion of the data

[35] NERC Comments at 5.

[36] *Id.*

[37] SRSG Comments at 1.

[38] BPA Comments at 3.

[39] *Id.*

[40] NWPP RSG Comments at 1–2.

[41] *Id.* at 2.

[42] *Id.* at 3.

[43] *Id.*

request should be based on each member balancing authority's obligation as a member of its reserve sharing group. This is in keeping with our statement that the Commission intends to examine and compare both member balancing authority and reserve sharing group data. Second, for each balancing authority, NERC and WECC should only report for those events that meet the Reportable Balancing Contingency Event threshold for their respective reserve sharing groups, as suggested by NWPP RSG. The contingency event recovery data can specify individual member balancing authority contingency reserve data plus contingency reserves from the reserve sharing group, if any.

39. Accordingly, we adopt the NOPR proposal and direct NERC and WECC to submit an informational filing 30 months following implementation of regional Reliability Standard BAL–002–WECC–3 containing a report that addresses the adequacy of contingency reserves in the Western Interconnection. We further accept NERC and WECC's plan to make the Commission immediately aware of any adverse impacts resulting from the retirement of Requirement R2, if they become apparent prior to the end of the reporting period, and any corrective actions taken or being considered.

III. Information Collection Statement

40. The FERC–725E information collection requirements contained in this final action are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).[44] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[45] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

41. In the NOPR, the Commission solicited comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asked that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated. The Commission did not receive any comments regarding the Commission's burden estimates.

42. The Commission approves regional Reliability Standard BAL–002–WECC–3 (Contingency Reserve), which replaces currently-effective regional Reliability Standard BAL–002–WECC–2a. The principal difference between currently-effective regional Reliability Standard BAL–002–WECC–2a and BAL–002–WECC–3 is the elimination of Requirement R2 from the currently-effective version.

43. *Public Reporting Burden:* The burden and cost estimates below are based on the need for applicable entities to revise documentation, already required by the current WECC regional Reliability Standard BAL–002–WECC–2a,[46] to reflect the retirement of Requirement R2 in WECC regional Reliability Standard BAL–002–WECC–3. Our estimates are based on the NERC Compliance Registry as of September 3, 2020, which indicates that 34 balancing authorities, 2 reserve sharing groups, 2 reliability coordinators, 265 generator owners, 256 generator operators, 78 transmission owners and 47 transmission operators are registered within WECC.

44. In addition to the changes identified in this final action, the Commission is adjusting burden estimates for the other WECC regional Reliability Standards in the FERC–725E information collection. These adjustments are warranted based on updates to the number of applicable registered entities that have changed due to normal industry fluctuations (*e.g.,* companies merging or splitting, going into or leaving the industry, or filling more or fewer roles in the NERC Compliance Registry).

45. There are several regional Reliability Standards in the WECC region. These regional Reliability Standards generally require entities to document compliance with substantive requirements, retain documentation, and submit reports to WECC. The following standards will be continuing without change.

- BAL–004–WECC–3 (Automatic Time Error Correction) requires balancing authorities to document that time error corrections and primary inadvertent interchange payback were conducted according to the requirements in the standard.
- FAC–501–WECC–2 (Transmission Maintenance) requires transmission owners with certain transmission paths to have a transmission maintenance and inspection plan and to document maintenance and inspection activities according to the plan.
- VAR–501–WECC–3.1 (Power System Stabilizer [PSS])[47] requires generator owners and operators to ensure the Western Interconnection is operated in a coordinated manner by establishing the performance criteria for WECC power system stabilizers.

46. The associated reporting and recordkeeping requirements included in the regional Reliability Standards above are not being revised, and the Commission will be submitting a request to OMB to extend these requirements for three years. The Commission's request to OMB will also reflect the following:

- Implement the regional Reliability Standard BAL–002–WECC–3 (addressed in this final action, Docket No. RM19–20), and
- Adjustments to the burden estimates due to changes in the NERC Compliance Registry for regional Reliability Standards BAL–002–WECC–3 (Contingency Reserve) and IRO–006–WECC–3 (Qualified Path Unscheduled Flow (USF) Relief).[48]

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

[45] 5 CFR 1320.11.

[46] BAL–002–WECC–2 is included in the OMB-approved inventory for FERC–725E. On November 9, 2016, NERC and WECC submitted a joint petition for approval of an interpretation of BAL–002–WECC–2, to be designated BAL–002–WECC–2a. BAL–002–WECC–2a was approved by order in Docket No. RD17–3–000 on January 24, 2017. The Order determined: ''The proposed interpretation provides clarification regarding the types of resources that may be used to satisfy Contingency Reserve requirements in regional Reliability Standard BAL–002–WECC–2.'' BAL–002–WECC–2a did not trigger the Paperwork Reduction Act and did not affect the burden estimate.

[47] VAR–501–WECC–3.1 was approved by order in Docket No. RD17–7–000 on September 26, 2017. The August 18, 2017 petition requested Commission approval of errata to mandatory and enforceable regional Reliability VAR–501–WECC–3 (Power System Stabilizer). Because the reporting burden for VAR–501–WECC–3.1 did not increase for entities that operate within the Western Interconnection, FERC submitted the order to OMB for information only. The burden related to VAR–501–WECC–3.1 does not differ from the burden of VAR–501–WECC–3, which is included in the OMB-approved inventory. VAR–501–WECC–3.1 is being included in this document and the Commission's submittal to OMB as part of FERC–725E.

[48] IRO–006–WECC–3 was approved by order in Docket No. RD19–4–000 on May 10, 2019. The March 6, 2019 petition states that WECC revised the regional Reliability Standard to clarify the purpose statement, replace certain defined terms, account for multiple reliability coordinators in the Western Interconnection, and conform the regional Reliability Standard to the current drafting conventions and template. Because the reporting burden for IRO–006–WECC–3 did not increase for entities that operate within the Western Interconnection, FERC submitted the order to OMB

Continued

47. *Changes Due to Docket No. RM19–20.* The Commission estimates the reduction in the annual public reporting burden for the FERC–725E (due to the retirement of BAL–002–WECC–2a, Requirement R2) as follows:

FERC–725E, MANDATORY RELIABILITY STANDARDS FOR THE WESTERN ELECTRIC COORDINATING COUNCIL, REDUCTIONS DUE TO DOCKET NO. RM19–20

Information collection requirements and entity	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost[49] per response (4)	Total annual burden hours & total annual cost (3) * (4) = (5)
Balancing Authorities Years 1 and 2[50]	0 (no change)	0 (no change)	0 (no change)	0 hrs.; $0 (no change)	0 hrs.; $0 (no change).
Balancing Authorities Year 3 and Ongoing	34	1	34	1 hr.; $83.67 (reduction)	34 hrs.; $2,844.78 (reduction).
Sub-Total, Reduction (Due to Docket No. RM19–20) in Year 3 and Ongoing.					34 hrs.; $2,844.78 (reduction).

48. *Adjustments Due to normal industry fluctuations.* The Commission estimates the changes in the annual public reporting burden for the FERC–725E (due to the number of applicable registered entities) as follows:[51]

FERC–725E, MANDATORY RELIABILITY STANDARDS FOR THE WESTERN ELECTRIC COORDINATING COUNCIL, ADJUSTMENTS DUE TO NORMAL INDUSTRY FLUCTUATIONS

Information collection requirements and entity	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost[49] per response (4)	Total annual burden hours & total annual cost (3) * (4) = (5)
Reliability Coordinators (IRO–006–WECC–3) Reporting Requirement.	1 (increase)	1	1	1 hr.; $83.67 (increase)	1 hr.; $83.67 (increase).
Reliability Coordinators (IRO–006–WECC–3) Record Keeping Requirement.	1 (increase)	1	1	1 hr.; $34.79 (increase)	1 hr.; $34.79 (increase).
Reserve Sharing Groups (BAL–002–WECC–3) Reporting Requirement.	1 (reduction)	1	1	1 hr.; $83.67 (reduction)	1 hr.; $83.67 (reduction).
Sub-Total, (Net Due to Adjustments)					1 hr.; $34.79 (net change).

49. *Estimate of Continuing Annual Burden for Renewal:*[52] The Commission estimates the annual public reporting burden and cost as follows for FERC–725E. (This information will be submitted to OMB for approval.) These estimates reflect:

- Reliability Standards in FERC–725E which continue and remain unchanged (BAL–004–WECC–3, FAC–501–WECC–2, and VAR–002–WECC–3.1);
- Implement the regional Reliability Standard BAL–002–WECC–3 (addressed in this final action, Docket No. RM19–20–000); and
- Adjustments to the burden estimates for regional Reliability Standards BAL–002–WECC–3 (Contingency Reserve) and IRO–006–WECC–3 (Qualified Path Unscheduled Flow (USF) Relief).

for information only. The burden related to IRO–006–WECC–3 does not differ from the burden of IRO–006–WECC–2, which is included in the OMB-approved inventory. IRO–006–WECC–3 is being included in this document and the Commission's submittal to OMB as part of FERC–725E.

[49] The hourly cost (for salary plus benefits) uses the figures from the Bureau of Labor Statistics (BLS) for three positions involved in the reporting and recordkeeping requirements. These figures include salary (based on BLS data for May 2019, *http://bls.gov/oes/current/naics2_22.htm*) and benefits (based on BLS data for December 2019; issued March 19, 2020, *http://www.bls.gov/news.release/ecec.nr0.htm*) and are Manager (Code 11–0000 $97.15/hour), Electrical Engineer (Code 17–2071 $70.19/hour), and File Clerk (Code 43–4071 $34.79/hour). The hourly cost for the reporting requirements ($83.67) is an average of the cost of a manager and engineer. The hourly cost for recordkeeping requirements uses the cost of a file clerk.

[50] The reduction in burden is zero for the first two years due to the directive in this final action to continue to report hourly contingency reserve data for 24 months.

[51] The number of applicable entities is based on the NERC Compliance Registry as of September 3, 2020.

[52] The Commission is also removing 1746 one-time burden hours associated with the requirements in Docket No. RD17–5 for regional Reliability Standard VAR–501–WECC–3 (Power System Stabilizer [PSS]). The one-time burden has been completed and will now be administratively removed on submittal to OMB. Those hours are not included in the table.

FERC–725E, MANDATORY RELIABILITY STANDARDS FOR THE WESTERN ELECTRIC COORDINATING COUNCIL

[New and continuing information collection requirements]

Entity	Number of respondents [53] (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden hours & cost [49] per response ($) (4)	Total annual burden hours & total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1) = (6)
Reporting Requirements						
Balancing Authorities Years 1 and 2 (BAL–002–WECC–3; BAL–004–WECC–3; IRO–006–WECC–3).	34	1	34	21 hrs.; $1,757.07.	714 hrs.; $59,740.38.	1,757.07
Balancing Authorities Year 3 and Ongoing (BAL–002–WECC–3; BAL–004–WECC–3; IRO–006–WECC–3).	34	1	34	20 hrs.; $1,673.40.	680 hrs.; $56,895.60.	1,673.40
Reserve Sharing Groups (BAL–002–WECC–3).	2	1	2	1 hr.; $83.67	2 hrs.; $167.34 ..	83.67
Reliability Coordinators (IRO–006–WECC–3).	2	1	2	1 hr.; $83.67	2 hrs.; $167.34 ..	83.67
Transmission Owners that operate qualified transfer paths (FAC–501–WECC–2).	5	1	5	40 hrs.; $3,346.80.	200 hrs.; $16,734.00.	3,346.80
Generator Owners and/or Operators (VAR–501–WECC–3.1).	291	2	582	1 hr.; $83.67	582 hrs.; $48,695.94.	167.34
Sub-Total for Reporting Requirements in Years 1 and 2.	.....	.....	625	.....	1,500 hrs.; $125,505.00.	.....
Sub-Total for Reporting Requirements in Year 3 & ongoing.	.....	.....	625	.....	1,466 hrs.; $122,660.22.	.....
Recordkeeping Requirements						
Balancing Authorities (BAL–002–WECC–3; BAL–004–WECC–3; IRO–006–WECC–3).	34	1	34	3.1 hrs.; $107.85	105.4 hrs.; $3,666.87.	107.85
Reliability Coordinator (IRO–006–WECC–3).	2	1	2	1 hr.; $34.79	2 hrs.; $69.58	34.79
Transmission Owners that operate qualified transfer paths (FAC–501–WECC–2).	5	1	5	6 hrs.; $208.74 ..	30 hrs.; $1043.70.	208.74
Generator Owners and/or Operators (VAR–501–WECC–3.1).	291	2	582	0.5 hrs.; $17.40	291 hrs.; $10,123.89.	34.79
Sub-Total for Recordkeeping Requirements.	.....	.....	623	.....	428.4 hrs.; $14,904.04.	.....
Total for FERC–725E, in YR. 1 and YR. 2.	.....	.....	1248	.....	1,928.4 hrs.; $140,409.04.	.....
Total for FERC–725E, in YR. 3 & Ongoing.	.....	.....	1248	.....	1,894.4 hrs.; $137,564.26.	.....

50. Interested persons may obtain information on the reporting requirements by contacting Ellen Brown, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 via email (*DataClearance@ferc.gov*) or telephone ((202) 502–8663).

51. The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

52. Please send comments concerning the collection of information and the associated burden estimates to: Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. Due to security concerns, comments should be sent electronically to the following email address: *oira_submission@omb.eop.gov*. Comments submitted to OMB should refer to OMB Control Nos. 1902–0246.

53. Please submit a copy of your comments on the information collections to the Commission via the eFiling link on the Commission's website at *http://www.ferc.gov*. If you are not able to file comments electronically, please send a copy of your comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426. Comments on

[53] The number of respondents is derived from the NERC Compliance Registry as of September 3, 2020.

the information collection that are sent to FERC should refer to RM19–20–000.

Title: FERC–725E, Mandatory Reliability Standards-WECC (Western Electric Coordinating Council).

Action: Three-year approval of the FERC–725E information collection requirements, as modified by Docket No. RM19–20–000 and due to normal industry fluctuations.

OMB Control No: 1902–0246 (FERC–725E).

Respondents: Business or other for-profit, and not-for-profit institutions.

Frequency of Responses: One-time.

Necessity of the Information: The regional Reliability Standard BAL–002–WECC–3, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the proposal ensures that balancing authorities and reserve sharing groups in the WECC Region have the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions.

Internal review: The Commission has reviewed regional Reliability Standard BAL–002–WECC–3 and determined that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

IV. Environmental Analysis

54. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[54] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[55] The actions finalized here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

55. The Regulatory Flexibility Act of 1980 (RFA)[56] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small entity.[57] These standards are provided in the SBA regulations at 13 CFR 121.201.[58]

56. Under SBA's size standards,[59] balancing authorities, reserve sharing groups, generator operators, generator owners, transmission owners, and transmission operators all fall under the category of NAICS code 221111-Hydroelectric Power Generation (500) and NAICS code 221118-Other Electric Power Generation (250), with a total size threshold of 750 employees (including the entity and its associates).[60]

57. This final action applies to registered balancing authorities and reserve sharing groups in the NERC Compliance Registry with data submitted to the Energy Information Administration on Form EIA–861 indicating that, of the 36 entities, 34 are registered balancing authorities and two are reserve sharing groups, two may qualify as small entities.[61]

58. Using the list from the NERC Compliance Registry (dated September 3, 2020), we estimate that approximately 22% of those entities are small entities.

59. The Commission estimates that, on average, each of the two affected small entities will have no further ongoing costs after year 3. These figures are based on information collection costs plus additional costs for compliance.

60. The Commission does not consider this to be a significant economic impact for small entities because it should not represent a significant percentage of the operating budget. Accordingly, the Commission certifies that this final action will not have a significant economic impact on a substantial number of small entities. The Commission seeks comment on this certification.

VI. Document Availability

61. 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*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

62. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

63. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

VII. Effective Date and Congressional Notification

64. This final action is effective June 28, 2021. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this action is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final action is being submitted to the Senate, House, and Government Accountability Office.

By direction of the Commission.

Issued: April 15, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–08571 Filed 4–28–21; 8:45 am]

BILLING CODE 6717–01–P

[54] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC 61,284).

[55] 18 CFR 380.4(a)(2)(ii).

[56] 5 U.S.C. 601–612.

[57] 13 CFR 121.101.

[58] 13 CFR 121.201. *See also* U.S. Small Business Administration, *Table of Small Business Size Standards Matched to North American Industry Classification System Codes* (effective Feb. 26, 2016), *https://www.ecfr.gov/cgi-bin/text-idx?SID=0ff5f0839abff4eec707b4478ed733c6&mc=true&node=pt13.1.121&rgn=div5#se13.1.121_1110.*

[59] 13 CFR 121.201.

[60] The threshold for the number of employees indicates the maximum allowed for a concern and its affiliates to be considered small.

[61] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act (SBA), which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. *See* 15 U.S.C. 632 (2006). According to the Small Business Administration, an electric utility is defined as ''small'' if, including its affiliates, the number of employees indicates the maximum allowed for a concern and its affiliates to be considered small.

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 10

Wage and Hour Division

29 CFR Parts 531, 578, 579, and 580

RIN 1235–AA21

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

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Final rule; delay of effective date.

SUMMARY: This action finalizes the Department of Labor's (Department) proposal to further extend the effective date of three discrete portions of the rule titled *Tip Regulations Under the Fair Labor Standards Act (FLSA)* (2020 Tip final rule), published December 30, 2020. This further delay of three portions of the rule allows the Department to complete a separate rulemaking that proposes to withdraw and re-propose two of these portions of the 2020 Tip final rule, published March 25, 2021, which includes, *inter alia,* a 60-day comment period and at least a 30-day delay between publication and the rule's effective date. It will also provide the Department additional time to conduct another rulemaking to potentially revise that portion of the 2020 Tip final rule addressing the application of the FLSA's tip credit provision to tipped employees who perform both tipped and non-tipped duties. All of the remaining portions of the 2020 Tip final rule will go into effect on April 30, 2021.

DATES: As of April 29, 2021, the amendments to 29 CFR 10.28(b)(2), 531.56(e), 578.1, 578.3, 578.4, 579.1, 579.2, 580.2, 580.3, 580.12, and 580.18, published December 30, 2020, at 85 FR 86756, delayed until April 30, 2021, on February 26, 2021, at 86 FR 11632, are further delayed until December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this document may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation or enforcement of the agency's existing regulations may be directed to the nearest WHD district office. Locate the nearest office by calling the WHD's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto WHD's website at *https://www.dol.gov/agencies/whd/contact/*local-offices for a nationwide listing of WHD district and area offices.

SUPPLEMENTARY INFORMATION:

I. Background

In the Consolidated Appropriations Act of 2018 (CAA), Congress added a new statutory provision at section 3(m)(2)(B) of the FLSA, which prohibits employers from keeping tips received by employees, regardless of whether the employers take a tip credit under section 3(m). Public Law 115–141, Div. S., Tit. XII, sec. 1201, 132 Stat. 348, 1148–49 (2018). The CAA also amended section 16(e)(2) of the FLSA to give the Department discretion to impose civil money penalties (CMPs) up to $1,100 [1] when employers unlawfully keep employees' tips. On December 30, 2020, the Department published *Tip Regulations Under the Fair Labor Standards Act (FLSA)* (2020 Tip final rule) in the **Federal Register** to address these CAA amendments. *See* 85 FR 86756. Unrelated to the CAA amendments, the 2020 Tip final rule also revises the definition of ''willful'' in the Department's CMP regulations, and would largely codify the Wage and Hour Division's (WHD) guidance [2] issued in 2018 and 2019 regarding the application of the FLSA's tip credit provision to tipped employees who perform tipped and non-tipped duties. *See id.* The original effective date of the 2020 Tip final rule was March 1, 2021. *See id.* A legal challenge to the 2020 Tip final rule was filed on January 19, 2021 by Attorneys General for eight states and the District of Columbia (*Pennsylvania* litigants), which is pending in the United States District Court for the Eastern District of Pennsylvania (*Pennsylvania* complaint or *Pennsylvania* litigation).[3]

A. First Delay of the 2020 Tip Final Rule

On February 26, 2021, after engaging in notice-and-comment rulemaking and considering the comments submitted, the Department published a final rule (Delay Rule) extending the effective date of the 2020 Tip final rule until April 30, 2021, in order to provide the Department additional opportunity to review and consider questions of law, policy, and fact raised by the rule. *See* 86 FR 11632. The 60-day delay of the effective date of the 2020 Tip final rule was sought pursuant to the Presidential directive as expressed in the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, titled ''Regulatory Freeze Pending Review.'' *See* 86 FR 7424.

The Department explained in the Delay Rule that it would use the delay to review and consider, among other things, whether the 2020 Tip final rule properly implemented the CAA amendments to section 3(m) of the FLSA. In particular, the Delay Rule explained that the Department would review and consider the incorporation of the CAA's language regarding CMPs for violations of section 3(m)(2)(B) of the FLSA and whether the 2020 Tip final rule's revisions to portions of the CMP regulations on willful violations were appropriate. The Department would also review and consider whether the Department adequately considered the possible costs, benefits, and transfers between employers and employees related to the 2020 Tip final rule's revisions to the Department's dual jobs regulations, which largely codified WHD's recent guidance on the application of the tip credit to tipped employees who perform tipped and non-tipped duties, as well as whether the 2020 Tip final rule otherwise effectuates the CAA amendments to the FLSA. *See* 86 FR 11634. The Department explained that allowing the 2020 Tip final rule to go into effect while the Department reviewed these issues could lead to confusion among workers and employers in the event that the Department proposed to revise the 2020 Tip final rule after its review; delaying the 2020 Tip final rule would avoid such confusion. *Id.*

B. Proposed Partial Delay of the Effective Date for Three Portions of the 2020 Tip Final Rule

On March 25, 2021, the Department proposed to delay the effective date of

[1] The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, sec. 31001(s)) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74, sec. 701), requires that inflationary adjustments be made annually in these civil money penalties according to a specified formula.

[2] *See* WHD Field Assistance Bulletin 2019–2 (Feb. 15, 2019) and WHD Opinion Letter FLSA2018–27 (Nov. 8, 2018).

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

three portions of the 2020 Tip final rule for an additional 8 months, through December 31, 2021 (Partial Delay NPRM): the two portions addressing the assessment of CMPs; and the portion addressing the application of the FLSA tip credit to tipped employees who perform tipped and non-tipped duties. *See* 86 FR 15811. The first portion of the 2020 Tip final rule that the Department proposed to further delay addressed the assessment of CMPs for violations of section 3(m)(2)(B) of the FLSA, *see* 29 CFR 578.3(a)–(b), 578.4, 579.1, 580.2, 580.3; 580.12; and 580.18(b)(3). Notwithstanding the fact that the CAA amended section 16(e)(2) of the FLSA to grant the Secretary discretion to assess CMPs for violations of section 3(m)(2)(B) ''as the Secretary determines appropriate,'' the 2020 Tip final rule limited the Secretary's ability to assess CMPs for violations of 3(m)(2)(B) to those instances where the violation is ''repeated'' or ''willful.'' *See, e.g.,* 85 FR 86772–73. The second portion of the 2020 Tip final rule that the Department proposed to further delay amended the Department's CMP regulations, *see* 29 CFR 578.3(c) and 579.2, to address when a violation of the FLSA is ''willful.'' *See* 85 FR 86773–74. The third portion of the 2020 Tip final rule that the Department proposed to further delay amended its ''dual jobs'' regulations, *see* 29 CFR 531.56(e),[4] to largely codify WHD guidance regarding when an employer can continue to take a tip credit for an employee in a tipped occupation who performs tipped and non-tipped duties. *See* 85 FR 86767–72.

In its Partial Delay NPRM, the Department sought comment on the proposed further delay of the effective date of these three portions of the 2020 Tip final rule. *See* 86 FR 15811. The Department also sought substantive comments on these three portions, and in particular, on the merits of withdrawing or retaining the portion of the rule that amended the Department's dual jobs regulations. *See id.* The Department did not propose to delay the effective date of the remaining provisions of the 2020 Tip final rule not addressed in the Partial Delay NPRM. The remaining provisions—consisting of those portions that addressed the keeping of tips and tip pooling,[5] recordkeeping,[6] and those portions that made other minor changes to update the regulations to reflect the new statutory language and citations added by the CAA amendments and clarify other references consistent with the statutory text [7]—will become effective upon the expiration of the first effective date extension, which extended the effective date of the 2020 Tip final rule through April 30, 2021. In a separate NPRM, titled *Tip Regulations Under the Fair Labor Standards Act (FLSA); Partial Withdrawal,* also published on March 25, 2021 (CMP NPRM), the Department proposed to withdraw and revise the two portions of the 2020 Tip final rule which addressed the assessment of CMPs under the FLSA: the portion which addressed the statutory provision establishing CMPs for violations of section 3(m)(2)(B) of the Act and the portion which addressed when a certain violation is ''willful.'' *See* 86 FR 15817.[8]

The Department explained in the Partial Delay NPRM that the proposed partial 8-month delay, until December 31, 2021, would provide the Department sufficient time to engage in a comprehensive review of three portions of the 2020 Tip final rule—the two portions of the rule which addressed the assessment of CMPs under the FLSA and the portion of the rule that addressed the application of the FLSA tip credit to tipped employees who perform tipped and non-tipped duties—and to take further action, as needed, to complete its review. *See* 86 FR 15815. The Department also explained that further review of these portions before they go into effect is particularly important given its concerns, which were also raised by the commenters on the Department's Delay Rule and the *Pennsylvania* litigants, that these portions of the rule raised significant substantive and procedural issues. *See id.*

Commenters on the Department's Delay Rule and the *Pennsylvania* litigants argued, for example, that the portion of the 2020 Tip final rule that addressed the assessment of CMPs for violations of section 3(m)(2)(B) is inconsistent with the FLSA and Congressional intent, since section 16(e)(2) of the FLSA does not require a finding of willfulness to assess a CMP for a section 3(m)(2)(B) violation. They also posited that the 2020 Tip final rule's revisions to the meaning of willfulness, particularly its removal of language regarding the meaning of reckless disregard, contradicted Supreme Court precedent on willfulness and Congressional intent. *See* 86 FR 15813–14.

The Department explained in the Partial Delay NPRM that, upon review of the comments received regarding its Delay Rule and the *Pennsylvania* complaint, it was proposing to withdraw and re-propose the two portions of the 2020 Tip final rule that addressed the assessment of CMPs. *See* 86 FR 15813. The Department stated that it preliminarily believed that it was necessary to delay these two portion of the 2020 Tip final rule while it completed this rulemaking to avoid codifying a limitation on the Department's ability to assess CMPs for violations of section 3(m)(2)(B) that may lack a basis in law, to ensure that the new regulations comport with the Supreme Court precedent regarding the meaning of willfulness, and to prevent confusion and uncertainty among the regulated community regarding what constitutes a willful violation. *See id.* at 15813–14.

The Partial Delay NPRM further noted that commenters on the Department's proposed Delay Rule, as well as the *Pennsylvania* litigants, argued that the 2020 Tip final rule's test for when an employer can take a tip credit for a tipped employee who performs related, non-tipped duties (dual jobs test) relied on terms—''contemporaneous with'' and ''a reasonable time immediately before or after tipped duties''—that district courts have found to be unclear; that the rule's use of the Occupational Information Network (O*NET) to define ''related duties'' authorized employer ''conduct that has been prohibited under the FLSA for decades'' and unlawfully permitted employers to keep employees' tips; and that the economic analysis of this portion of the rule failed to quantify or consider its impact on workers and disregarded evidence submitted by a commenter on the NPRM for the 2020 Tip final rule. *See* 86 FR 15814. Commenters on the Delay Rule and the *Pennsylvania* litigants also called into question whether the portion of the 2020 Tip final rule addressing the application of the FLSA tip credit to employees who perform tipped and non-tipped work could withstand judicial review, including whether this portion of the rule would withstand a challenge under the Administrative Procedure Act (APA) claiming that the Department's failure to include a

[4] *See also* 29 CFR 10.28(b)(2) (incorporating the same guidance on when an employer can continue to take an FLSA tip credit for an employee who is engaged in a tipped occupation and performs both tipped and non-tipped duties in the Department's regulations relating to Executive Order 13658, ''Establishing a Minimum Wage for Contractors'').

[5] 29 CFR 10.28(c), (e)–(f); 531.50 through 531.52, 531.54.

[6] 29 CFR 516.28(b).

[7] 29 CFR 531.50, 531.51, 531.52, 531.55, 531.56(a), 531.56(c)–(d), 531.59, and 531.60.

[8] In the CMP NPRM, the Department also sought comment on whether to revise one other portion of the 2020 Tip final rule that addresses the meaning of ''managers and supervisors'' under section 3(m)(2)(B) of the FLSA and asked questions about how it might improve the recordkeeping requirements in the 2020 Tip final rule in a future rulemaking. *See* 86 FR 15817, 15818.

quantitative economic analysis for this portion of the rule was arbitrary and capricious. *See id.*

The Department stated in the Partial Delay NPRM that, following its review of the comments submitted on the proposed Delay Rule and the *Pennsylvania* complaint, it was concerned that the 2020 Tip final rule did not accurately identify when a tipped employee who is performing non-tipped duties is still engaged in a tipped occupation. *See* 86 FR 15814–15. Accordingly, the Department believed that it might be prudent to delay the effective date of this portion of the 2020 Tip final rule so that it could consider whether to engage in further rulemaking on this issue before it codifies such a test for the first time into its regulations. *See id.* The Department also stated that it preliminarily believed that it would be disruptive to employers to adjust their practices to accommodate the new test articulated in the 2020 Tip final rule and then have to readjust if that test does not survive judicial scrutiny or if the Department decides to propose a new test, and that delaying the effective date of this portion of the rule while the Department conducted its review would address these concerns. *See id.* at 15815.

II. Comments and Decision

A. Introduction

The Department's Partial Delay NPRM sought comment on the proposed further delay of the effective date of three portions of the 2020 Tip final rule: The two portions that addressed the assessment of CMPs; and the portion of the rule that revised the Department's regulations to address the application of the FLSA tip credit to tipped employees who perform tipped and non-tipped duties. *See* 86 FR 15811. The Department also sought substantive comments on these three portions of the 2020 Tip final rule, and in particular, on the merits of withdrawing or retaining the portion of the rule that amended the Department's dual jobs regulations. *See id.*

A total of 22 organizations timely commented on the Partial Delay NPRM (86 FR 15811, Mar. 25, 2021) during the 20-day comment period that ended on April 14, 2021. Comments may be viewed on *www.regulations.gov,* document ID WHD–2019–0004–0497. The Department received comments from a broad array of stakeholders, including the Attorneys General for eight states and the District of Columbia who filed the *Pennsylvania* complaint, a law firm, industry groups, non-profit organizations, and advocacy organizations. Seventeen commenters supported the Department's proposal to further delay the effective date of three portions of the 2020 Tip final rule. Five commenters opposed the proposed partial delay.[9] In advocating for the proposed partial delay or opposing the proposed partial delay, all 22 commenters discussed the substance of the 2020 Tip final rule. Commenters who supported the proposed partial delay based their support, in significant part, on legal and policy concerns with the three portions of the 2020 Tip final rule, as well as concerns with the rule's economic analysis of the dual jobs portion of the rule. Commenters who opposed the proposed delay generally expressed support for the legal, policy, and factual conclusions made by the Department in the 2020 Tip final rule, including in the three portions that the Department proposed to delay.

B. Comments in Support of the Partial Delay

Seventeen commenters supported the Department's proposal to delay the effective date of three portions of the 2020 Tip final rule for an additional 8 months, including nine Attorneys General (AGs), the National Employment Law Project (NELP), National Women's Law Center (NWLC), Restaurant Opportunities Centers United (ROC United), Women's Law Project (WLP), Center for Law and Social Policy (CLASP), Kentucky Equal Justice Center (KEJC), One Fair Wage (OFW), Oxfam America, Northwest Workers' Justice Project (NWJP), National Urban League (NUL), Loyola College of Law's Workplace Justice Project (WJP), Shriver Center on Poverty Law, Work Safe, Justice at Work, and the North Carolina Justice Center (NCJC). The Center for Workplace Compliance (CWC) supported the Department's proposal ''to the extent that it allows most provisions of the rule to go into effect on April 30.''

The advocacy organizations that submitted comments in favor of the Partial Delay NPRM urged the Department to finalize the delay as proposed in order to evaluate the questions of law, policy, and fact raised by the portions of the 2020 Tip final rule proposed to be delayed. In its comments supporting the Partial Delay NPRM, NELP argued that the delay was ''critical'' and that allowing these portions of the rule to go into effect ''could create irreparable harm that would result from decreased wages for workers already struggling during a pandemic.'' NELP and the AGs also argued that the Partial Delay is important to give the Department time to fully consider the allegations in the *Pennsylvania* complaint that these portions of the rule lack a foundation in or are otherwise inconsistent with applicable law. NELP stated that allowing these three portions of the rule to go into effect would cause confusion and additional compliance costs if they are ultimately invalidated after judicial review. The Economic Policy Institute (EPI) also supported delaying the effective date of all three portions of the rule and stated that the Department should re-propose the dual jobs portion of the rule to establish a standard that is ''no less protective'' than the Department's ''longstanding 80/20 Rule.''[10]

1. Comments Regarding the Portions of the 2020 Tip Final Rule That Address CMPs for Violations of Section 3(m)(2)(B) and Willful Violations of the FLSA

As noted above, a number of commenters supported further delaying the two CMP portions of the 2020 Tip final rule to give the Department time to consider the allegations raised in the *Pennsylvania* complaint and to complete further rulemaking. The AGs and many of the employee advocacy organizations stated that they supported further delay of the first portion of the 2020 Tip final rule related to CMPs which limits the assessment of CMPs to willful and repeated violations of section 3(m)(2)(B) because the rule is in conflict with the plain statutory language of the FLSA providing the Secretary with discretion to assess those CMPs. *See* CLASP, KEJC, NCJC, NUL, NWJP, NWLC, OFW, Oxfam America, ROC United, WJP, and WLP. The AGs also argued that the second portion of the CMP regulations defining a ''willful'' violation under the FLSA for which CMPs can be assessed unlawfully limits the definition of willfulness because it conflicts with Supreme Court caselaw. A number of commenters, including the AGs, stated they would submit substantive comments regarding the assessment of CMPs in response to the CMP NPRM published on March 25, 2021, in which the Department has

[9] The Department received three comments that are outside the scope of this rulemaking. An individual submitted a comment regarding issues unrelated to the Department of Labor or the FLSA. *See* WHD–2019–0004–0510. One organization submitted a duplicate of its comment. *See* WHD–2019–0004–0511; WHD–2019–0004–0526. The record also contains a document that was submitted by a WHD official to test the *Regulations.gov* comment system. *See* WHD–2019–0004–0497.

[10] As noted in the 2020 Tip final rule, the Department's 80/20 guidance became known as the ''80/20 rule,'' even though it was not promulgated as a regulation. *See* 85 FR 86761.

proposed withdrawing and reproposing those two portions of the rule.

2. Comments Regarding the Portion of the 2020 Tip Final Rule That Address Changes to the Dual Jobs Regulations at § 531.56(e)

A number of advocacy organizations stated that they supported the Department's proposal to further delay the effective date for the 2020 Tip final rule's dual jobs test for determining when an employee is engaged in a tipped occupation, because it departs from the former Department guidance of using a 20 percent limitation on related, non-tipped duties, and would permit employers to continue paying tipped employees as little as $2.13 an hour for extensive periods of time where these employees are not earning tips. *See* CLASP, KEJC, NWJP, NWLC, NUL, OFW, Oxfam America, ROC United, and WLP. Pointing to the Department's acknowledgment in the 2019 tip NPRM that tipped employees might have a reduction in tipped income if they are allowed to perform more non-tipped work while still being compensated as little as $2.13 an hour, the groups observed that the 2020 Tip final rule test could also have a significant, negative impact on non-tipped employees' wages. They explained that if tipped employees are permitted to do more non-tipped work at a lower rate of pay than non-tipped employees, it may result in lowering wages for non-tipped employees. These commenters argued that the 2020 Tip final rule's dual jobs test could also result in a reduction in the number of employees hired to perform non-tipped occupations, such as ''cleaners, maintenance, prep, and back-office workers.'' NWLC stated, ''[w]ith the regulatory barriers to abuse of the tip credit—and tipped employees—all but removed, millions of working people could be required to do more work for less pay.''

Employee advocacy groups also asserted that although the Department had justified the change to the dual jobs regulations in the 2020 Tip final rule by explaining that the new test was easier to administer than its previous 80/20 guidance and would provide needed clarity, the Department's assertion is not borne out by the facts. As NELP stated, ''[t]o the contrary, the 80/20 rule has been consistently used and accepted by courts and the Department itself over a 30-year period.'' Other employee advocacy groups asserted that the new dual jobs test uses ambiguous measures such as ''contemporaneous with'' and ''a reasonable time'', which could lead to litigation over those terms. They also noted that the vast majority of courts considering the Department's 2018–19 guidance, which uses these same terms, declined to accord deference to the guidance, in part because of this ambiguity. Similarly, the AGs argued in their comment supporting the additional delay of the effective date for the dual jobs portion of the rule that the 2020 Tip final rule will increase litigation because it ''implements a vague standard that contains no limitation on the non-tipped duties a tipped employee may be required to perform and still be paid the sub-minimum wage rate.'' As evidence of the vagueness of the standards, the AGs point to the language in the 2020 Tip final rule which ''states that 'contemporaneous' means 'during the same time as,' before making the caveat that it 'does not necessarily mean that the employee must perform tipped and non-tipped duties at the exact same moment in time.' '' The AGs also argue that the 2020 Tip final rule nowhere provides an explanation of what it means to be performing related duties ''for a reasonable time.'' The AGs conclude that the additional extension for the effective date of this portion of the rule is necessary to give the Department time to consider and review this issue and to complete the rulemaking process if it decides to withdraw or revise the dual jobs provision.

The AGs also argued that the Department's use of O*NET as a guide to determine which tasks are related or not related to a tipped occupation is flawed because O*NET, which is compiled from employee surveys of tasks that they perform in the occupation in which they are employed, ''seeks to describe the work as it is, not as is should be, and does not account for FLSA violations in industries known to have high violation rates, such as the restaurant industry.'' Thus, according to the AGs, the use of O*NET ''sanction[s] conduct that has been prohibited under the FLSA for decades.''

The employee advocacy groups also posited that the 2020 Tip final rule's dual jobs provision conflicts with the new statutory provision in section 3(m)(2)(B) of the FLSA prohibiting employers from ''keeping'' tips, because it allows employers to take a tip credit for a greater amount of time than the Department's previous 80/20 guidance. These groups encouraged the Department to abandon the 2020 Tip final rule's dual jobs test and use a rule that minimizes, rather than maximizes, employers' use of tips to satisfy their minimum wage obligations. These groups urged the Department to propose a new standard that is stronger even than its previous 80/20 guidance to prevent abuse of the tip credit and to protect low-wage tipped workers. These groups also urged the Department to consider the allegations raised in the *Pennsylvania* complaint related to the 2020 Tip final rule's dual jobs provision and noted that the arguments raised in the complaint, particularly that the rule ''contradicts the text and purpose of the [FLSA]'' and ''violated rulemaking process requirements, including failing to analyze the impact the rule would have on tipped workers,'' should be seriously considered and addressed in any future rulemaking. *See* CLASP; *see also* KEJC, NWJP, NWLC, NUL, OFW, Oxfam America, ROC United, and WLP.

In its comment supporting the Partial Delay NPRM, EPI stated that the 2020 Tip final rule's revision to the dual jobs regulations created a ''less protective'' standard for tipped wages, replacing a firm 20 percent limitation on the amount of related non-tipped duties that tipped employees could perform while being paid the tipped wage of $2.13 per hour with ''vague and much less protective'' language. EPI criticized the dual jobs portion of the 2020 Tip final rule as permitting ''tipped workers to be paid the subminimum tipped wage while performing an unlimited amount of non-tipped duties, as long as those non-tipped duties are performed 'contemporaneously with tipped duties or for a reasonable time immediately before or after performing the tipped duties.' '' EPI noted that because these new regulatory terms, such as ''reasonable time,'' are not defined, they create an ''ambiguity that would [be] difficult to enforce'' and would create ''an immense loophole that would be costly to workers.'' EPI also encouraged the Department to create a rule that is ''stronger'' than the previous 80/20 guidance ''that further clarifies, and limits, the amount of non-tipped work for which an employer can claim a tip credit.'' EPI suggested that the Department could, among other things, consider tightening the definitions of related and unrelated duties, propose to adopt standards such as those adopted in states such as New York that, for example, bar an employer from taking a tip credit on any day during which they spend more than 20 percent of their time in a non-tipped occupation, and/or promulgate enhanced notice and recordkeeping requirements.

With respect to the economic analysis conducted on the dual jobs portion of the 2020 Tip final rule, EPI suggested that it was flawed because it did not sufficiently estimate the economic impact on workers—as EPI did in a comment it submitted in the 2020 Tip

rulemaking, which concluded that the rule ''would allow employers to capture more than $700 million annually from workers.'' The AGs and NELP also argued in their comments in support of the Partial Delay NPRM that the Department's failure to quantitatively estimate the impact of the dual jobs portion of the 2020 Tip final rule or to consider the estimates of the rule's impact submitted by EPI and other groups in the course of that rulemaking is evidence that the rulemaking was arbitrary and capricious under the APA.

In its comments supporting the Partial Delay, NELP also stated that a delayed effective date of the dual jobs portion of the rule would give the Department the opportunity to consider how the rule ''improperly narrows the protections of the FLSA for tipped workers in a variety of fast-growing industries including delivery, limousine and taxi, airport workers, parking, carwash, valet, personal services and retail, in addition to restaurants and hospitality.'' Similarly, ROC United stated that the recent pandemic had restructured the nature of tipped employment in ways that should be taken into consideration in any future rulemaking. ROC United urged the Department to consider in its review of the dual jobs portion of the 2020 Tip final rule that restaurant workers' jobs had changed during the pandemic ''to include significant additional tipped duties for non-tipped occupations, and significant additional non-tipped duties for tipped occupations,'' and that the expanded use of contactless service interactions and purchases during the pandemic, including app-based delivery, had ''dramatically reduc[ed] customarily tipped interactions and increas[ed] tipping in non-tipped circumstances.''

C. Comments in Opposition of the Partial Delay

Five organizations submitted comments that expressed opposition to the Partial Delay NPRM. The National Federation of Independent Businesses (NFIB) opposed the Department's proposed delay in the two portions of the 2020 Tip final rule regarding the assessment of CMPs. CWC stated that it was ''pleased to support DOL's proposal to the extent that it allows most provisions of the rule to go into effect,'' though it ''question[ed] the need to further delay the implementation of important provisions of the final rule.'' CWC directed the Department to the prior comments it submitted on the NPRM for the 2020 Tip final rule and the Partial Delay NPRM. The National Retail Federation (NRF),[11] the National Restaurant Association (NRA), and Littler Mendelson's Workplace Policy Institute (WPI) opposed the proposed delay of the dual jobs portion of the rule. The NRA also indicated that it would address the two portions of the 2020 Tip final rule regarding the assessment of CMPs in a subsequent comment on the CMP NPRM. All five organizations expressed general support for the 2020 Tip final rule. The NRA and NFIB also noted that the COVID–19 pandemic has posed serious challenges for restaurants and other small businesses, which the Department should take into account in formulating its regulations.

1. Comments Regarding the Portion of the 2020 Tip Final Rule That Address CMPs for Violations of Section 3(m)(2)(B)

NFIB stated that the Department should allow the portion of the 2020 Tip final rule that addressed the assessment of CMPs for violations of section 3(m)(2)(B) to go into effect on April 30, 2021.[12] It argued that the 2020 Tip final rule appropriately limited the Department's ability to assess CMPs for violations of section 3(m)(2)(B) to those instances where the violation is repeated or willful, since section 16(e)(2) of the FLSA confers ''wide discretion'' upon the Department. In the alternative, NFIB requested that the Department maintain the 2020 Tip final rule's limits on the assessment of CMPs for violations of section 3(m)(2)(B) for employers with fewer than 100 employees, citing the particular challenges of small businesses to comply with Federal regulations. CWC did not specifically oppose the proposed delay to the portion of the 2020 Tip final rule addressing the assessment of CMPs for section 3(m)(2)(B) violations; however, in its prior comments on the NPRMs for the 2020 Tip final rule and the Delay Rule, CWC stated that this portion of the 2020 Tip final rule addressing the Secretary's ability to assess CMPs for violations of section 3(m)(2)(B), as well as the identically-worded proposal in the NPRM for the 2020 Tip final rule, were consistent with the statute.[13]

2. Comments Regarding the Portion of the 2020 Tip Final Rule Addressing CMPs for Willful Violations of the FLSA

NFIB also opposed the proposed delay to the portion of the 2020 Tip final rule that addressed CMPs for willful violations of the FLSA. According to NFIB, ''the definitions of 'repeatedly' [14] and 'willfully' set forth in'' in the 2020 Tip final rule's revisions to the Department's CMP regulations ''are reasonable and practical.'' In the alternative, NFIB requested that the Department maintain the 2020 Tip final rule's revisions to the definition of willfulness for employers with fewer than 100 employers.[15] In its prior comments, CWC expressed support for the 2020 Tip final rule's revisions to the definition of ''willful'' in its CMP regulations.[16]

3. Comments Regarding the Portion of the 2020 Tip Final Rule Addressing Changes to the Dual Jobs Regulations at § 531.56(e)

In their comments opposing the Department's proposed delay to the dual jobs portion of the 2020 Tip final rule, the NRA and WPI argued that the 2020 Tip final rule dual jobs test is ''a step in the right direction'' and ''faithful to the FLSA's text'' insofar as the revised

[11] NRF and the National Council of Chain Restaurants (NCCR), a division of NRF, submitted a comment together.

[12] NFIB's comment addresses both the Partial Delay NPRM and the separate NPRM that the Department published on March 25, 2021. In addition to expressing its opposition to the delay of the portions of the 2020 Tip final rule addressing CMPs, NFIB's comment also opposes any further recordkeeping requirements and supports allowing tipped managers and supervisors to keep their own tips received directly from customers. The Department is not proposing to delay these portions of the 2020 Tip final rule; accordingly, NFIB's comments regarding these matters are outside the scope of this rulemaking. The Department will consider NFIB's comments regarding these matters in the separate rulemaking, the comment period for which closes on May 24, 2021. *See* 86 FR 15817.

[13] As noted above, WPI, the NRA, and NRF expressed general support for the 2020 Tip final rule.

[14] The 2020 Tip final rule added a reference to violations of section 3(m)(2)(B) to the existing definition of ''repeated'' in the Department's CMP regulations but did not make any revisions to the definition of ''repeated.'' In the CMP NPRM, the Department has proposed removing the reference to 3(m)(2)(B) violations from the definition of repeated but has not proposed any revisions to the definition. *See* 85 FR 86756, 86792 (Dec. 30, 2020); 86 FR 15817, 15827–28 (March 25, 2021); 29 CFR 578.3(b) (defining ''repeated'').

[15] Additionally, NFIB stated that the Department should ''preserve the requirement in 29 CFR 578.4 that, in determining the amount of a CMP, the Department 'shall consider the seriousness of the violations and the size of the employer's business[.]' '' The Department has proposed delaying for 8 months the revisions to § 578.4 made by the 2020 Tip final rule, and proposed additional revisions to this section in its separate NPRM dated March 25, 2021 (CMP NPRM) to preserve the Department's authority to assess CMPs for violations of section 3(m)(2)(B). However, it has not proposed to revise the language in § 578.4 providing that the Department ''shall consider the seriousness of the violations and the size of the employer's business'' in determining ''the amount of penalty to be assessed.'' *See* 86 FR 15817, 15828.

[16] As noted above, the NRA, NRF, and WPI also expressed general support for the 2020 Tip final rule.

dual jobs regulations eliminated the 20 percent limitation on the amount of time a tipped employee can perform related non-tipped duties and still be paid a direct cash wage of no less than $2.13 per hour. In support of this position, the NRA and WPI argued that, since the FLSA permits employers to take a tip credit for a ''tipped employee,'' defined as an employee engaged in a tipped ''occupation,'' the FLSA does not provide any basis for distinguishing between tipped workers' tipped duties and non-tipped duties. *See* 29 U.S.C. 203(m), (t).

Commenters who opposed the proposed delay in the 2020 Tip final rule's revisions to § 531.56(e) also argued that the 2020 Tip final rule dual job test will be easier for employers to administer than the Department's previous 80/20 guidance. In its prior comment on the Delay Rule, CWC stated that the revisions to dual jobs test would make compliance easier for employers; WPI likewise stated that the revised dual jobs test's use of O*NET to define related non-tipped duties would make compliance simpler. Additionally, WPI and the NRA stated that the revisions to the dual jobs test will lead to less litigation.

The NRA also stated that there is no need to reconsider the dual jobs portion of the 2020 Tip final rule, as ''the Department already took years to consider every angle.'' According to the NRA, neither the *Pennsylvania* complaint nor the concerns with the rule's economic analysis raised by commenters such as EPI are grounds for delaying any part of the 2020 Tip final rule. Regarding the *Pennsylvania* complaint, the NRA emphasized that no court has ruled on any aspect of the complaint and that there has not been any briefing. Regarding the economic analysis, the NRA argued that EPI's criticism of the 2020 Tip final rule ''rest[s] on the flawed premise'' that the 2020 Tip final rule eliminated a ''quantitative cap'' on the amount of related non-tipped duties a tipped worker can perform, since the Department had already ''abandoned'' the quantitative cap in 2018 when it issued Opinion Letter FLSA 2018–27. Therefore, ''EPI's baseline is simply incorrect.''

Commenters who opposed the proposed delay of the dual jobs portion of the 2020 Tip final rule also expressed concern that delaying this portion of the rule would be disruptive to employers. NRF stated that its members had already undertaken ''efforts to implement the final rule in their operations nationwide.'' The NRA stated that ''since at least November 2018,'' when the Department issued its current guidance, ''employers had already been adjusting.'' WPI made a somewhat different argument: It noted that some courts have continued to apply the Department's prior 80/20 guidance on related duties, rather than the Department's current guidance, and stated that allowing the 2020 Tip final rule's revisions to the dual jobs regulations to go into effect would bring clarity to employers.

Although WPI opposed the proposed delay in the dual jobs portion of the 2020 Tip final rule, it included some recommendations for the Department to consider in the event that it ultimately proposes to withdraw and revise this portion of the rule. WPI stated that any alternative should include ''concrete guidance on where the lines are to be drawn,'' adding that, in its view, ''there has been no clear definition of what duties are 'tipped' as opposed to merely 'related' or 'non-tipped.' '' WPI further stated that any ''quantitative limit'' on duties that a tipped employee can perform ''must precisely identify which duties fall on either side of the line,'' recognize that occupations can evolve over time, and draw upon O*NET as a resource.

D. Discussion of Comments and Rationale for Finalizing the Partial Delay of the 2020 Tip Final Rule

In the Partial Delay NPRM, the Department stated that, in accordance with its review of questions of law, policy, and fact raised by the 2020 Tip final rule, most of the 2020 Tip final rule will go into effect upon the expiration of the first effective date extension, April 30, 2021. However, the Department proposed delaying three portions of the 2020 Tip final rule for an additional 8 months—the two portions of the 2020 Tip final rule that addressed the assessment of CMPs and the portion that revised the Department's dual jobs regulations—in order to engage in a comprehensive review of the issues of law, fact, and policy raised by these three portions of the 2020 Tip final rule and to take further action, as needed, to complete its review.

After reviewing the comments received, the Department believes that these three portions of the 2020 Tip final rule should be further delayed until after the Department has completed its comprehensive review of these portions of the rule. Pursuant to this review, the Department has already initiated a separate rulemaking proposing to withdraw and re-propose the two portions of the rule addressing the assessment of CMPs. The Department intends to complete the CMP NPRM before the expiration of this Partial Delay. The Department also intends to initiate another rulemaking to potentially revise the portion of the 2020 Tip final rule related to the revision of its dual jobs regulations. Delaying these three portions of the 2020 Tip final rule until after the Department completes its review of these portions of the rule will allow the Department to reconsider legal, policy, and factual conclusions on which these three portions of the rule were based, and about which commenters who supported the Partial Delay NPRM have raised concerns. Delaying these three portions of the 2020 Tip final rule until after the Department completes its comprehensive review of these portions of the rule will also prevent harm to the Department, workers, and employers. In particular, delaying these three portions of the 2020 Tip final rule until after the Department completes its review will allow the Department to avoid codifying changes to its regulations that it may ultimately determine to lack a basis in law and that may not survive judicial scrutiny. It will also prevent changes to employment practices that may be contrary to the FLSA and harmful to workers, and which may need to be reversed in the event the Department withdraws and revises these portions of the 2020 Tip final rule, causing disruption to employers. And it will prevent confusion and uncertainty among workers and the regulated community while the Department continues to review these portions of the 2020 Tip final rule.

1. CMPs for Violating Section 3(m)(2)(B)

The first portion of the 2020 Tip final rule that the Department has proposed to further delay addresses the assessment of CMPs for violations of section 3(m)(2)(B) of the FLSA, which prohibits employers, including managers and supervisors, from ''keeping'' tips. As discussed above, the CAA amended section 16(e)(2) of the FLSA to grant the Secretary discretion to assess CMPs for ''each such violation'' of section 3(m)(2)(B) ''as the Secretary determines appropriate.'' *See* 29 U.S.C. 216(e)(2). Unlike the statutory provisions in section 16(e)(2) regarding CMPs for minimum wage and overtime violations, the statute does not limit the assessment of CMPs to repeated or willful violations of section 3(m)(2)(B). In the 2020 Tip final rule, the Department incorporated CMPs for violations of section 3(m)(2)(B) into the Department's existing CMP regulations at 29 CFR parts 578, 579, and 580. The 2020 Tip final rule codifies in its regulations the Department's post CAA

enforcement policy, *see* FAB No. 2018–3, pursuant to which it assesses CMPs only for repeated or willful violations of section 3(m)(2)(B).

However, in light of the comments submitted in support of the Department's Delay Rule and the *Pennsylvania* complaint, the Department became concerned that the 2020 Tip final rule inappropriately and unlawfully circumscribed its authority to issue CMPs for section 3(m)(2)(B) violations. Accordingly, in the CMP NPRM published simultaneously with the Partial Delay NPRM, the Department proposed to withdraw this portion of the 2020 Tip final rule and proposed revisions to parts 578, 579, and 580 of its regulations to eliminate the restriction on the Department's ability to assess CMPs only for repeated and willful violations of section 3(m)(2)(B). 86 FR 15817. In the Partial Delay NPRM, the Department proposed delaying this portion of the rule until after the Department completes its review, explaining that this delay would avoid codifying a limitation on the Department's authority to assess CMPs that may lack a basis in law. *See* 86 FR 15821–22.

After reviewing the comments on the Partial Delay NPRM, the Department believes that there are strong grounds for engaging in further review of the portion of the 2020 Tip final rule that addressed the assessment of CMPs for violations of section 3(m)(2)(B) before it goes into effect. In the Partial Delay NPRM and the CMP NPRM, the Department identified serious legal and policy concerns with this portion of the rule, namely, that it may inappropriately and unlawfully circumscribe the Department's discretion to assess CMPs when employers unlawfully keep employees' tips. These concerns are reflected in comments submitted from the AGs and the numerous employee advocacy organizations that supported further delay of this portion of the 2020 Tip final rule. These commenters argued that this portion of the 2020 Tip final rule, by limiting the assessment of CMPs to willful and repeated violations of section 3(m)(2)(B), is in conflict with the plain statutory language of the FLSA providing that the Secretary may assess CMPs under this section ''as the Secretary determines appropriate,'' and thus explicitly provides the Secretary with discretion to assess those CMPs. *See, e.g.,* NWLC; ROC United; OFW; CLASP. As the AGs explained in their comment, the *Pennsylvania* complaint alleges that ''[t]he Department's decision to require a willful violation of Section 203(m)(2)(B) to impose civil money penalties is contrary to the plain text of the statute,'' and ''flouts congressional intent.'' The NRA argues in its comment that the *Pennsylvania* complaint does not justify a further delay in the rule because the court has not yet ruled on the litigants' claims. However, the Department believes that the AGs' argument regarding the statutory text and legislative intent is sufficiently persuasive to finalize the additional delay of this portion of the rule, particularly where any harm from the delay is, on balance, offset by the need for additional consideration to avoid the possibility of codifying into the Department's regulations provisions that may not survive judicial scrutiny.

To the extent that NFIB, as well as the CWC, NRF, and the NRA, dispute that this portion of the 2020 Tip final rule raises serious legal and policy concerns that merit further consideration by the Department, the Department disagrees. Citing the ''wide discretion'' that FLSA section 16(e)(2) affords the Department in determining whether to assess CMPs for 3(m)(2)(B) violations, NFIB argued that it is appropriate for the Department to impose the same limits on the assessment of CMPs for 3(m)(2)(B) violations as its imposes for CMPs for section 6 and 7 violations. However, section 16(e)(2) explicitly limits the Department's ability to assess CMPs for section 6 and 7 violations to those that are ''repeated and willful''; the Department's existing CMP regulations in 29 CFR parts 578, 579, and 580 reflect this statutory limitation. Section 16(e)(2) contains no such limitation on the assessment of CMPs for violations of section 3(m)(2)(B); to the contrary, it explicitly provides the Secretary discretion to assess CMPs for violations of section 3(m)(2)(B) ''as the Secretary determines appropriate.''

The Department had concluded in the 2020 Tip final rule that a desire for consistent enforcement procedures justified limiting the Department's assessment of CMPs for violations of 3(m)(2)(B) to the same extent as other FLSA CMPs. *See* 85 FR 86773. However, in light of the comments it has received in support of the Partial Delay NPRM, the Department has serious concerns that codifying such a limit on the assessment of CMPs for violations of section 3(m)(2)(B) in its regulations may fail to preserve what NFIB has appropriately characterized as the Department's ''wide discretion'' under the statute. The Department is therefore finalizing the delay of this portion of the rule as proposed. Delaying the effective date of this portion of the 2020 Tip final rule will provide the Department sufficient time to complete its comprehensive review of this portion of the rule, in particular, to allow the Department to consider the legal and policy conclusions on which this portion of the rule is based, and regarding which the AGs and advocacy organizations have raised serious concerns. This delay will also permit the Department to conduct notice and comment rulemaking regarding its separate CMP NPRM, in which the Department has proposed withdrawing and reproposing the portion of the rule addressing the assessment of CMPs for violations of section 3(m)(2)(B), before this portion of the rule goes into effect.

The Department thus finalizes its proposed delay of the portion of the 2020 Tip final rule addressing the assessment of CMPs for violations of section 3(m)(2)(B). The Department notes that, upon review of the comments it receives on the CMP NPRM, which proposed to withdraw and re-propose this portion of the rule, it may determine that it is not appropriate to withdraw or amend this portion of the 2020 Tip final rule. The Department will make that determination in the context of the CMP NPRM.

2. CMPs for Willful Violations

The second portion of the 2020 Tip final rule that the Department proposed to further delay made revisions to those parts of the Department's FLSA regulations at §§ 578.3(c) and 579.2 which address when a violation of the FLSA is ''willful.'' As discussed above, section 16(e)(2) of the FLSA authorizes the Department to assess a CMP against ''any person who repeatedly or willfully violates'' sections 6 and 7 of the FLSA, the Act's minimum wage and overtime requirements. 29 U.S.C. 216(e)(2). The regulations interpreting these statutory terms are intended to implement the Supreme Court's opinion in *McLaughlin* v. *Richland Shoe Co.,* 486 U.S. 128, 133 (1988), which held that a violation is willful if the employer ''knew or showed reckless disregard'' for whether its conduct was prohibited by the FLSA. The regulations provide that WHD shall take into account ''[a]ll of the facts and circumstances surrounding the violation'' when determining whether a violation is willful. *See* 29 CFR 578.3(c)(1), 579.2. From 1992 until the Department issued the 2020 Tip final rule, the Department's CMP regulations at §§ 578.3(c)(2) and 579.2 provided that ''an employer's conduct shall be deemed knowing, among other situations, if the employer received advice from a responsible official of [WHD] to the effect that the conduct in question is not lawful.'' Sections

578.3(c)(3) and 579.2 also provided that ''an employer's conduct shall be deemed to be in reckless disregard of the requirements of the Act, among other situations, if the employer should have inquired further into whether its conduct was in compliance with the Act, and failed to make adequate further inquiry.'' However, courts of appeals considering those regulations concluded that there is an ''incongruity'' between, on the one hand, the regulatory provisions deeming two specific circumstances to be willful, and on the other hand, ''the *Richland Shoe* standard on which the regulation is based.'' *Baystate Alternative Staffing, Inc.* v. *Herman,* 163 F.3d 668, 680–81 (1st Cir. 1998); *see also Rhea Lana, Inc.* v. *Dep't of Labor,* 824 F.3d 1023, 1030–32 (D.C. Cir. 2016).

The 2020 Tip final rule revised the ''willful'' portions of the Department's CMP regulations to attempt to address these courts of appeals decisions. The 2020 Tip final rule revised § 578.3(c)(2) and the corresponding language in § 579.2 to state that, in considering all of the facts and circumstances, an employer's receipt of advice from WHD that its conduct was unlawful ''can be sufficient'' to show that the violation is willful but is ''not automatically dispositive.'' However, the 2020 Tip final rule also deleted § 578.3(c)(3) and the corresponding language in § 579.2 addressing the meaning of reckless disregard.[17] The 2020 Tip final rule explained that an employer who should have inquired further but did not do so adequately is a specific scenario that courts have already determined is equivalent to reckless disregard, rather than a fact that could impact a determination of willfulness. 85 FR 86774. The 2020 Tip final rule stated that because such a scenario was not a ''fact'' or ''circumstance'' that the Department should consider when determining reckless disregard, it was not appropriate to include it in the regulations. *Id.* Accordingly, the 2020 Tip final rule stated that revising § 578.3(c)(3) in the same manner as § 578.3(c)(2) ''did not seem helpful'' and deleted that provision. *Id.*

In the Partial Delay NPRM, the Department proposed to further delay the effective date of this portion of the 2020 Tip final rule while it completes its review of this portion of the rule to ensure that the new regulations comport with the Supreme Court's decision in *Richland Shoe* and to prevent confusion and uncertainty among the regulated community regarding what constitutes a ''willful'' violation. As the Department noted in the Partial Delay NPRM, the *Pennsylvania* litigants argued that this portion of the 2020 Tip final rule is contrary to law because it ''removes an employer's failure to inquire further into whether its conduct was in compliance with the Act from the Department's description of willfulness,'' ''contradict[ing] the Supreme Court's long-established definition of willfulness.'' *See* Delay NPRM (citing *Commonwealth of Pennsylvania et al.* v. *Scalia et al.,* No. 2:21–cv–00258, pp. 23–24, 94 (E.D. Pa., Jan. 19, 2021). The Department proposed that delaying the portion of the 2020 Tip final rule addressing the assessment of CMPs for willful violations until after the Department completes its review of this portion of the rule would avoid codifying into the Department's regulations provisions that, absent reconsideration by the Department, may not survive judicial scrutiny.

In its CMP NPRM, the Department stated that it continued to believe that revisions to its 1992 regulations addressing the meaning of willfulness were needed in order to address the courts of appeals decisions discussed above. However, the Department asked for comment on whether modifications to this portion of the 2020 Tip final rule were needed to clarify that multiple circumstances, not just the circumstance identified, can be sufficient to show that a violation was knowing and thus willful. *See* 86 FR 15822. The Department also asked for comment on whether the 2020 Tip final rule inappropriately deleted the language at § 578.3(c)(3) and the corresponding language at § 579.2 addressing reckless disregard. Accordingly, the CMP NPRM proposed withdrawing and reproposing the portion of the 2020 Tip final rule addressing the meaning of willfulness; the CMP NPRM also proposed language addressing the meaning of reckless disregard.

After reviewing the comments on the Partial Delay NPRM, the Department has decided to finalize the delay of the portion of the 2020 Tip final rule addressing the meaning of willfulness as proposed. As with the portion of the 2020 Tip final rule addressing CMPs for violations of section 3(m)(2)(B), the Department has identified multiple serious concerns with this portion of the rule. These include the Department's concern that removing § 578.3(c)(3) and the corresponding language in § 579.2 could inadvertently suggest that an employer's failure to inquire further into the lawfulness of its conduct when it should have does not constitute reckless disregard, and therefore, willfulness; its concern that the 2020 Tip final rule's revisions to § 578.3(c)(2) and the corresponding language in § 579.2 erroneously suggested that only an employer's receipt of advice from WHD, and no other circumstances, can demonstrate that a violation of the FLSA was knowing; and its concern that further revisions are needed to align these regulations with relevant Supreme Court precedent. Comments from the AGs and employee advocacy organizations confirmed and reinforced these concerns. Regarding the deletion of language regarding reckless disregard, for instance, the AGs noted that ''[c]urrently, a violation is considered willful when the Department provides advice to an employer that it chooses not to follow or when an employer fails to inquire adequately into its legal obligations in some circumstances. However, if the 2020 Final Tip Rule takes effect, these actions would no longer be considered willful and subject to civil money penalties.'' Numerous advocacy organizations also asserted that these changes weaken worker protections under the FLSA. *See, e.g.,* NELP; Oxfam America; Justice at Work.

NFIB opposed the proposed delay in the portion of the 2020 Tip final rule addressing the assessment of CMPs for willful violations, which it characterized as ''reasonable'' and ''practical.'' CWC also expressed support for this portion of the rule in its prior comments. In its comment on the Delay Rule, for instance, CWC commended the Department for bringing its regulations regarding the meaning of willfulness ''more closely'' in line with appellate court precedent, specifically *Baystate Alternative Staffing* v. *Herman,* 163 F.3d 668 (1st Cir. 1998). As noted above, the NRA contended that the *Pennsylvania* litigants' legal challenge does not support delaying the 2020 Tip final rule, as no court has ruled on any aspect of the complaint, and NRF expressed general opposition to delaying the rule. As explained above, however, the Department has serious concerns that this portion of the 2020 Tip final rule does not align with the Supreme Court's decision in *Richland Shoe.* Additionally, comments from the AGs and advocacy groups illustrate, at a minimum, that the 2020 Tip final rule's revisions to these CMP provisions have caused confusion about the Department's changes to those provisions. Accordingly, the

[17] As noted above, § 578.3(c)(3) and the corresponding language in § 579.2 had provided, ''[A]n employer's conduct shall be deemed to be in reckless disregard, among other situations, if the employer should have inquired further into whether its conduct was in compliance with the Act, and failed to make adequate further inquiry.''

Department concludes that the portion of the 2020 Tip final rule addressing the assessment of CMPs for willful violations raises serious legal and policy concerns that merit further review by the Department.

By delaying the effective date of this portion of the 2020 Tip final rule to allow sufficient time to undertake a comprehensive review of this portion of the rule, the Department will be able to evaluate the concerns discussed above before it goes into effect. The notice-and-comment process associated with the Department's CMP NPRM, in which it has proposed withdrawing and reproposing this portion of the rule, will be integral to this review. The Department also believes that delaying this portion of the rule while it undertakes its review will prevent confusion and uncertainty among employers and workers regarding the definition of willfulness. As the comments from the AGs and advocacy organizations demonstrate, such confusion is likely to be caused, in particular, by the 2020 Tip final rule's removal of language regarding the meaning of reckless disregard from § 578.3(c) and § 579.2.

The Department thus finalizes the proposed delay in the portion of the 2020 Tip final rule addressing the meaning of willfulness. The Department notes that, upon review of the comments it receives on the CMP NPRM, which proposes to withdraw and re-propose this portion of the rule, it may determine that it is not appropriate to withdraw or amend this portion of the 2020 Tip final rule. The Department will make that determination in the context of the CMP NPRM.

3. Dual Jobs Regulations

The third portion of the 2020 Tip final rule that the Department proposed to further delay involves the amendment of its ''dual jobs'' regulations to address when an employer can continue to take a tip credit for an employee who is engaged in a tipped occupation and performs both tipped and non-tipped duties, *see* § 531.56(e).[18] For many years, the Department's subregulatory guidance addressing this issue permitted employers to continue to take a tip credit for the time a tipped employee performed non-tipped duties related to his or her tipped occupation unless the time spent in such duties exceeded 20 percent of the employee's workweek (80/20 guidance). In 2018 and 2019, the Department changed its subregulatory guidance to provide that employers could continue to take a tip credit for any non-tipped work that a tipped employee performed which was related to his or her tipped occupation, provided that work was performed ''contemporaneously with'' or ''for a reasonable time immediately before or after'' his or her tipped work. The Department's guidance provided that employers could use O*NET, which is a database of worker attributes and job characteristics compiled by the Employment and Training Administration, to determine whether a duty was related or not related to the tipped occupation. *See* WHD Field Assistance Bulletin (FAB) 2019–2 (Feb. 15, 2019) and WHD Opinion Letter FLSA2018–27 (Nov. 8, 2018) (2018–19 guidance). In 2019, the Department proposed to amend its existing dual jobs regulations at § 531.56(e) [19] to incorporate this guidance. *See* 84 FR 53956. The 2020 Tip final rule largely codified the 2018–19 guidance; the primary difference between the 2018–19 guidance and the 2020 Tip final rule is that the final rule only used O*NET as a guide for determining related duties, rather than as a definitive source. *See* 85 FR 86S756, 86790.

As the Department explained in the Partial Delay NPRM, a number of district courts have found that the test in the 2018–2019 guidance for when an employer can take a tip credit for a tipped employee who performs related non-tipped duties—limiting the tip credit to non-tipped related duties performed ''contemporaneously with'' or for a ''reasonable time immediately before or after'' performing tipped duties—is unclear or have otherwise refused to follow the test set forth in that guidance.[20] Additionally, the *Pennsylvania* complaint challenges the dual jobs test in the 2020 Tip final rule, which largely codifies this guidance, under the APA. The *Pennsylvania* litigants who brought the complaint argue that the 2020 Tip final rule's dual jobs test—which also limits the tip credit to non-tipped related duties performed ''contemporaneously with'' or for a ''reasonable time immediately before or after'' performing tipped duties—relies on ''ill-defined'' terms and fails to ''provide any guidance as to when—or whether—a worker could be deemed a dual employee during a shift or how long before or after a shift constitutes a reasonable time.'' 86 FR 15811.[21] Additionally, the *Pennsylvania* litigants challenged the 2020 Tip final rule's use of O*NET as a resource to determine ''related duties,'' which, according to their complaint, authorizes employers to engage in ''conduct that has been prohibited under the FLSA for decades.'' [22] Given the concerns noted with this portion of the rule, the Department asked for comment on whether it should further delay the dual jobs portion of the 2020 Tip final rule to consider concerns raised in the *Pennsylvania* litigation as well as other aspects of that portion of the rulemaking, such as the validity of the economic analysis, and asked for

[18] *See also* 29 CFR 10.28(b)(2) (incorporating the same guidance on when an employer can continue to take an FLSA tip credit for an employee who is engaged in a tipped occupation and performs both tipped and non-tipped duties in the Department's regulations relating to Executive Order 13658, ''Establishing a Minimum Wage for Contractors'').

[19] *See also* 29 CFR 10.28(b)(2).

[20] The preamble to the 2020 Tip final rule lists many of these decisions. *See* 85 FR 86770–71. For example, a district court stated that the 2018 DOL guidance ''inserts new uncertainty and ambiguity into the analysis'' and noted that the Department ''fails to explain how long a 'reasonable time' would be, or what is meant by performing non-tipped work 'contemporaneously' with tipped work.'' *Flores* v. *HMS Host Corp.,* No. 18–3312, 2019 WL 5454647 (D. Md. Oct. 23, 2019). District courts have also found that the Department's guidance contradicts the limitations (''occasionally,'' ''part of [the] time,'' and ''takes a turn'') that remain in the Dual Jobs regulation. For example, in *Belt* v. *P.F. Chang's China Bistro, Inc.,* 401 F. Supp. 3d 512, 533 (E.D. Pa. 2019), the district court held that the dual jobs guidance was unreasonable because ''the temporal limitations it imposes on untipped related work conflict with those in the text of the Dual Jobs regulation.'' *See also Berger* v. *Perry's Steakhouse of Ill., LLC,* 430 F. Supp. 3d 397, 411–12 (N.D. Ill. 2019) (same); *Roberson* v. *Tex. Roadhouse Mgmt. Corp.,* No. 19–628, 2020 WL 7265860 (W.D. Ky. Dec. 10, 2020) (same).

[21] *See Commonwealth of Pennsylvania et al.* v. *Scalia et al.,* No. 2:21-cv-00258, p. 128, 131 (E.D. Pa., Jan. 19, 2021); *see also id.* at p. 129 (''The Department never provides a precise definition of 'contemporaneous,' simply stating that it means 'during the same time as'' before making the caveat that it ''does not necessarily mean that the employee must perform tipped and non-tipped duties at the exact same moment in time.'')

[22] *See Commonwealth of Pennsylvania et al.* v. *Scalia et al.,* No. 2:21-cv-00258, p. 115 (E.D. Pa., Jan. 19, 2021) (''Because it seeks to describe the work world as it is, not as it should be, O*NET cannot and does not account for FLSA violations in industries known to have high violation rates like the restaurant industry; therefore, using it to determine related duties will sanction conduct that has been prohibited under the FLSA for decades.''); *id.* at p. 117 (''O*NET tasks for waiters and waitresses include 'cleaning duties, such as sweeping and mopping floors, vacuuming carpet, tidying up server station, taking out trash, or checking and cleaning bathrooms'—when from 1988 until 2018, the Department's Field Operations Handbook specified as an example, 'maintenance work (*e.g.,* cleaning bathrooms and washing windows) [is] not related to the tipped occupation of a server; such jobs are non-tipped occupations.'''). Some district courts have levied similar criticism against the use of O*NET to perform this test. *See, e.g., O'Neal* v. *Denn-Ohio, LLC,* No. 19–280, 2020 WL 210801 at *7 (N.D. Ohio Jan. 14, 2020) (declining to defer to the 2018 guidance in part because O*NET relies in part on data obtained by asking employees which tasks their employers assign them to perform, which ''would allow employers to ''re-write the regulation without going through the normal rule-making process,'' and is therefore unreasonable).

comments generally addressing the merits of the 2020 Tip final rule dual jobs test. The Department asked whether further delaying the effective date of this portion of the 2020 Tip final rule so that it could fully consider the merits of these claims and consider whether to engage in further rulemaking on this issue might be prudent before it codified such a test into its regulations for the first time. The Department noted that it would be disruptive to employers to adjust their practices to accommodate the dual jobs test articulated in the 2020 Tip final rule and then have to readjust if that test does not survive judicial scrutiny or if the Department decides to propose a new dual jobs test. The Department proposed that delaying the effective date while the Department undertakes its review, instead of allowing this portion of the 2020 Tip final rule to be implemented, addresses this concern before employers change their practices to accommodate a dual jobs test that ultimately may not survive judicial scrutiny or that the Department may change.

After carefully considering the comments received, the Department has concluded that the dual jobs portion of the 2020 Tip final rule raises legal and policy concerns that warrant further delay of the effective date of this portion of the rule while the Department considers these issues and conducts another rulemaking to potentially revise that portion of the rule. The Department received a number of significant comments in support of further extension of the effective date of the dual jobs portion of the rule. These comments raised concerns similar to those raised in the *Pennsylvania* litigation: that the new dual jobs test sets too lax a standard and will depress tipped employees' wages and possibly eliminate non-tipped jobs, that the new test does not reflect the statutory definition of a tipped employee, that the terms used in the new test are so amorphous that they will lead to extensive litigation, that O*NET is not an appropriate tool to determine related duties, and that the Department's economic analysis for this portion of the rule did not sufficiently identify the economic impact of this new test on employees and employers.

The Department shares the concerns of the commenters who supported the Partial Delay NPRM that, by removing the limit on the amount of time a tipped employee can perform related non-tipped duties, the new test articulated in the 2020 Tip final rule may not accurately identify when a tipped employee who is performing non-tipped duties is still engaged in a tipped occupation under the FLSA. The Department is also concerned that the 2020 Tip final rule's dual jobs regulations may be contrary to the prohibition on keeping tips in section 3(m)(2)(B) of the statute because it increases employers' ability to use tips to satisfy their minimum wage obligations.

The NRA and WPI comments support permitting the dual jobs portion of the 2020 Tip final rule to go into effect, arguing that it would be inappropriate to revert back to the Department's previous 80/20 guidance because the FLSA only refers to employees being employed in a ''tipped occupation'' and therefore does not create any distinction between the tipped and non-tipped duties of a tipped employee.[23] The Department is not proposing in this Partial Delay rulemaking to revert back to its 80/20 guidance. It notes, however, that the NRA and WPI reading of the statute is inconsistent with the position taken by the Department in the 2020 Tip final rule, which determines whether an employee is engaged in a tipped occupation based on the employees' duties.[24] Particularly because this portion of the rule is being challenged under the APA and may not survive judicial scrutiny, the Department believes it should further delay the effective date of this portion of the rule. This will ensure that it has the opportunity to thoroughly consider commenters' concerns that the dual jobs portion of the 2020 Tip final rule is contrary to the FLSA, and propose and complete a new rulemaking on this issue, before the rule goes into effect.

A number of commenters encouraged the Department to allow the dual jobs portion of the 2020 Tip final rule to go into effect because the new test, which eliminates the 20 percent limitation on related duties and uses O*NET as a resource for determining which duties are related to the tipped occupation, makes compliance easier for employers. WPI and the NRA, for example, stated that the revisions to § 531.56(e) created a standard that is not as susceptible to litigation as the previous 80/20 guidance. On the other hand, a number of commenters who supported the further delay argued that the 2020 Tip final rule contained a number of amorphous terms, such as ''contemporaneous'' and ''reasonable time'', that may not be sufficiently defined, a defect that could lead to extensive litigation over the scope of those terms. The Department agrees that it should at a minimum consider the argument that these terms are not adequately defined. The Department also agrees with the commenters that it should further delay the rule so that it can review the numerous court decisions which declined to defer to the Department's 2018–2019 guidance, which was the basis for the dual jobs test included in the 2020 Tip final rule, to determine whether those decisions identify any weaknesses in the 2020 Tip final rule dual jobs test. The Department also shares the concerns of the commenters that O*NET may not be an appropriate tool to identify duties related to tipped occupations. As the commenters pointed out, since O*NET compiles lists of duties that correspond to various occupations and is generated through employee surveys, it reflects the duties that tipped employees are performing, rather than the duties they should be performing.[25]

The Department also shares commenters' concerns with the process by which the Department promulgated the dual jobs portion of the 2020 Tip final rule, specifically, that the economic analysis may not have adequately estimated the impact of this portion of the rule. In particular, the Department is concerned that its analysis of the economic impact of the dual jobs portion of the 2020 Tip final rule failed to adequately address EPI's comment on the rule, and that alleged flaws in its economic analysis call into question whether this portion of the rule was the product of reasoned decision making. The NRA argued in its comment opposing an additional delay of the effective date that EPI's economic analysis of the dual jobs portion of the 2020 Tip final rule was flawed because it used the wrong baseline. [26] However,

[23] NRF also expressed general support for the 2020 Tip final rule's related non-tipped duties test, characterizing it as a ''balanced approach.''

[24] Specifically, revised § 531.56(e) distinguishes between tipped employees' tipped duties, for which employers can take a tip credit; non-tipped duties related to a tipped employee's occupation, which employers can take a tip credit for when they are performed contemporaneously or for a reasonable amount of time immediately before or after performing tipped duties; and non-tipped duties that are not part of a tipped employee's occupation, for which employers cannot take a tip credit.

[25] As noted above, the NRA's comment opposing the further delay stated as a general matter that the *Pennsylvania* complaint does not support a delay of the 2020 Tip final rule. However, the Department believes that the concerns raised by commenters with both the substance of the dual jobs portion of the rule and the process by which it was promulgated—which mirror those raised in the *Pennsylvania* complaint—are sufficiently persuasive to warrant further delaying this portion of the rule.

[26] The NRA comment also asserts that the Department ''agreed not to assert such a limitation in pending and future investigations in response to litigation filed against the Department of Labor in federal court in Texas.'' In support, the NRA comment cites a Notice of Dismissal, filed in

the Department believes that the criticisms raised by EPI are sufficiently serious to warrant further review, even if the Department ultimately concludes that it used the correct baseline. Given the Department's concern that its economic analysis of the dual jobs portion of the 2020 Tip final rule may not be sufficient, the Department also shares EPI's concern, reiterated by numerous advocacy organizations, that allowing this portion of the rule to go into effect without further consideration of the economic analysis could potentially lead to a loss of income for workers in tipped industries, many of whom are continuing to struggle with the economic impact of the COVID–19 pandemic. [27] Further delay of this portion of the rule would also allow the Department to consider any changes from the COVID–19 pandemic to tipped work that should inform its ongoing consideration of the dual jobs portion of the rule.

In sum, the Department believes that the proposed delay of the dual jobs portions of the 2020 Tip final rule through December 31, 2021, is reasonable given the numerous issues of law, policy, and fact raised by the comments, which reflect very serious concerns with the substance of the dual jobs portion of the 2020 Tip final rule and the process through which it was promulgated. While an 8-month delay is significant, the Department believes that allowing this portion of the rule to go into effect may lead to harm to the Department, workers, and employers if the rule is ultimately invalidated. The Department appreciates the NRA's comment that there is no need to reconsider the dual jobs portion of the 2020 Tip final rule because the Department has already conducted a rulemaking to consider this issue and that it would be disruptive to employers to further delay implementation of the new rule. The NRA argues that employers have already implemented the dual jobs portion of the 2020 Tip final rule because they changed their practices to follow the Department's 2018–2019 dual jobs guidance. However, as WPI acknowledged, a number of courts have declined to follow the Department's 2018–19 guidance and have decided instead to adopt the Department's prior 80/20 guidance. Therefore, some employers have not applied the 2020 Tip final rule dual jobs test. Also, as explained above, the 2020 Tip final rule was based on the 2018–19 guidance but is not identical to it. As also noted above, the Department believes that the concerns raised by the commenters that the dual jobs test lacks legal sufficiency should be explored before the dual jobs test is codified for the first time into the Department's regulations and that it would be more disruptive to employers if the rule went into effect only to be invalidated in the *Pennsylvania* litigation. The Department also believes that it is significant that a number of commenters, including EPI, NELP, and WPI have urged the Department to consider whether the dual jobs test could be strengthened, both in terms of employee protection and in workability. The Department will consider the specific recommendations made by commenters such as WPI and EPI as part of its ongoing review of the dual jobs portion of the 2020 Tip final rule.

In sum, after considering the comments submitted, the Department believes that further delay is essential to inform the Department's comprehensive review of the dual jobs portion of the 2020 Tip final rule, including conducting a rulemaking to potentially revise that portion of the rule.

4. Length of the Proposed Delay

In the Partial Delay NPRM, the Department proposed delaying the effective date of three portions of the 2020 Tip final rule—the two portions relating to the assessment of CMPs and the portion that revised the Department's dual jobs regulations—for an additional 8 months, through December 31, 2021. *See* 86 FR 15812. The Department proposed that this additional delay would provide it with sufficient time to consider all aspects of these three portions of the rule, conduct rulemaking on two portions of the 2020 Tip final rule through the CMP NPRM, evaluate commenters' concerns, and consider whether to propose withdrawing and reproposing the third portion of the rule addressing dual jobs. The Department also noted that the CMP NPRM includes a 60-day comment period and that a final CMP rule would have at least a 30-day delay between publication in the **Federal Register** and its effective date.[28] The Department solicited comments on whether the proposed period of delay is an appropriate length of time.

The Department received one comment specifically addressing the length of the proposed delay. The AGs stated that the length of the delay was appropriate because it gives the Department sufficient time ''to complete the rulemaking process and will avoid multiple rulemakings and delays,'' to ''consider and review'' all the issues raised by the portion of the 2020 Tip final rule addressing the Department's dual jobs regulations, and ''to complete the rulemaking process should it decide to withdraw or revise'' the portion of the 2020 Tip final rule addressing dual jobs. As noted above, seventeen advocacy organizations supported the Partial Delay NPRM and five organizations opposed it.

After carefully reviewing the comments received, and based on its extensive rulemaking experience, the Department concludes that the proposed 8-month delay provides it with sufficient time to complete its comprehensive review of these three portions of the 2020 Tip final rule, which will allow the Department to complete the CMP rulemaking as well as a separate rulemaking to potentially revise the dual jobs portions of the 2020 Tip final rule. Accordingly, the Department finalizes the proposed 8-month delay in these three portions of the 2020 Tip final rule.

5. Effective Date of This Partial Delay

This rule delaying the effective date of the two portions of the 2020 Tip final rule addressing the assessment of CMPs and the portion of the 2020 Tip final rule addressing the Department's dual jobs regulations is effective immediately.[29] Section 553(d) of the APA, 5 U.S.C. 553(d), provides that publication of a substantive rule must be made no less than 30 days before its

Restaurant Law Center v. *Acosta,* No. 1:18–cv–00567–RP (W.D. Tex. Nov. 30, 2018), a case that challenged a prior, now superseded, interpretation reflected then in Section 30d00(f). The Department disagrees that the November 30, 2018, Notice of Dismissal limits its ability to reconsider this portion of the December 30, 2020 Tip final rule. Under the terms of that dismissal, the parties stipulated that Opinion Letter FLSA 2018–27 ''resolve[d] the case or controversy underlying the Complaint,'' and that WHD would ''instruct its staff, as a matter of enforcement policy, not to enforce the superseded interpretation'' in the Department's prior guidance ''with respect to work performed prior to the issuance of the Opinion Letter.'' Notice of Dismissal, *Restaurant Law Center* v. *Acosta,* No. 1:18–cv–00567–RP (W.D. Tex. Nov. 30, 2018). The Department did not agree in that prior litigation to constrain either its ability to reconsider its guidance or engage in future rulemaking on this issue. *Id.*

[27] Numerous commenters, both those who supported and those who opposed the Partial Delay NPRM, noted that the COVID–19 pandemic has had a particularly serious impact on the restaurant industry and tipped workers. *See. e.g.,* OFW (noting that ''in the midst of the COVID–19 economic crisis'' tipped workers ''have already seen their tips plummet''); NRA (''It is important to highlight the fact that the restaurant industry has been uniquely hurt by the pandemic. No industry has lost more jobs or more revenue.'').

[28] The APA generally requires agencies to publish substantive rules ''not less than 30 days before [their] effective date.'' 5 U.S.C. 553(d).

[29] The amendments made to 29 CFR 10.28(b)(2), 531.56(e), 578.1, 578.3, 578.4, 579.1, 579.2, 580.2, 580.3, 580.12, and 580.18, revised at 85 FR 86756 (December 30, 2020), and delayed at 86 FR 11632 (February 26, 2021) until April 30, 2021, are further delayed until December 31, 2021.

effective date except, among other exceptions, ''as otherwise provided by the agency for good cause found.'' The Department finds that it has good cause to make this rule effective immediately upon publication because allowing for a 30-day delay between publication and the effective date of this rule would result in the three portions of the 2020 Tip final rule that this rule delays taking effect before the delay begins. Such an outcome would undermine the purpose for which this rule is being promulgated and result in additional confusion for regulated entities. Moreover, this rulemaking institutes an 8-month delay of portions of the 2020 Tip final rule, rather than itself imposing any new compliance obligations on employers; therefore, the Department finds that a lapse between publication and the effective date of this rule delaying the Tip final rule's effective date is unnecessary. Because allowing for a 30-day period between publication and the effective date of this rulemaking is both unnecessary and would fundamentally undermine the purpose for which this rule is being promulgated, this final rule delaying the effective date of three portions of the 2020 Tip final rule is effective immediately upon publication in the **Federal Register**.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant Regulations, 5 CFR part 1320, require the Department to consider the agency's need for its information collections, their practical utility, as well as the impact of paperwork and other information collection burdens imposed on the public, and how to minimize those burdens. This final rule does not contain a collection of information subject to OMB approval under the Paperwork Reduction Act.

IV. Executive Order 12866, Regulatory Planning and Review; and Executive Order 13563, Improved Regulation and Regulatory Review

Under Executive Order 12866, OMB's Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive Order and OMB review.[30] Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as economically significant); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OIRA has determined that this delay is not economically significant under section 3(f) of Executive Order 12866.

Executive Order 13563 directs agencies to, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; that it is tailored to impose the least burden on society, consistent with obtaining the regulatory objectives; and that, in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. Executive Order 13563 recognizes that some costs and benefits are difficult to quantify and provides that, when appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. The analysis below outlines the impacts that the Department anticipates may result from this delay and was prepared pursuant to the above-mentioned executive orders.

In this rule, the Department will further extend the effective date of three portions of the 2020 Tip final rule in order to engage in a comprehensive review of the issues of law, fact, and policy raised by these three portions of the 2020 Tip final rule and to take further action, as needed, to complete its review. This delay will provide the Department additional time to complete the CMP rulemaking and as well as an additional rulemaking on the portion of the 2020 Tip final rule that addressed the application of the FLSA's tip credit provision to tipped employees who perform both tipped and non-tipped duties. The remainder of the 2020 Tip final rule, including portions that addressed the keeping of tips and tip pooling,[31] recordkeeping,[32] and other minor changes[33] will become effective upon the expiration of the first effective date extension, which extended the effective date of the 2020 Tip final rule to April 30, 2021. *See* 86 FR 11632.

In March 2018, Congress amended section 3(m) and sections 16(b), (c), and (e) of the FLSA to prohibit employers from keeping their employees' tips, to permit recovery of tips that an employer unlawfully keeps, and to suspend the operations of the portions of the 2011 final rule that restricted tip pooling when employers do not take a tip credit. In the economic analysis of the 2020 Tip final rule, the Department quantified transfer payments that could occur when employers institute non-traditional tip pools. Because these transfers have already been quantified, and the provision regarding tip pooling will go into effect on April 30, 2021, this delay will not have any impact on these quantified transfers.

The Department expects that the industries that may be affected by the delay are those that were acknowledged to have tipped workers in the 2020 Tip final rule. These industries are classified under the North American Industry Classification System (NAICS) as 713210 (Casinos), 721110 (Hotels and Motels), 722410 (Drinking Places (Alcoholic Beverages)), 722511 (Full-service Restaurants), 722513 (Limited Service Restaurants), and 722515 (Snack and Nonalcoholic Beverage Bars). The 2017 data from the Statistics of US Businesses (SUSB) reports that these industries have 503,915 private firms and 661,198 private establishments.[34] The Department acknowledges that there are other industries with tipped workers that would have been affected by the 2020 Tip final rule.

Part of the reason for an additional delay of the effective date is for the Department to conduct rulemaking on this portion of the rule that amended the Department's dual jobs regulations to address the application of the FLSA tip credit to tipped employees who perform both tipped and non-tipped duties. In the 2020 Tip final rule, the Department amended its dual jobs regulations to largely codify WHD's recent guidance regarding when an employer can take a tip credit for hours that a tipped employee performs non-tipped duties related to his or her occupation, which replaced the 20 percent limitation on related non-tipped duties with an updated related duties test. The Department provided a qualitative analysis of this change, and stated that the removal of a 20 percent limitation

[30] *See* 58 FR 51735, 51741 (Oct. 4, 1993).

[31] 29 CFR 10.28(c), (e)–(f); 531.50–.52, 531.54.

[32] 29 CFR 516.28(b).

[33] 29 CFR 531.50, 531.51, 531.52, 531.55, 531.56(a), 531.56(c)–(d), 531.59, and 531.60.

[34] Statistics of U.S. Businesses 2017, *https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html,* 2016 SUSB Annual Data Tables by Establishment Industry.

on tasks that are not directly tied to receipt of a tip may result in tipped workers such as wait staff and bartenders performing more related non-tipped duties.[35] The Department acknowledged that one outcome could be that employment of workers currently performing these duties may fall, and that tipped workers might lose tipped income by spending more of their time performing duties where they are not earning tips, while still receiving cash wages of less than the full minimum wage. The Department also stated that eliminating the cost to scrutinize employees' time to demonstrate compliance with the 20 percent limitation would result in costs savings to employers. In the event that the 2020 Tip final rule's revisions to the dual jobs regulations would have led to cost savings for employers, transfers between employees and employers, or transfers among employees, these effects will be delayed by this rule. These effects may also change after the Department conducts rulemaking on the dual jobs portion of the 2020 Tip final rule.

The effective date delay will allow the Department to better consider this provision and determine if there is a clearer way to address the application of the FLSA tip credit to tipped employees who perform both tipped and non-tipped duties. The delay will also provide the Department time to quantify any impact associated with such a change, if warranted, in the dual jobs rulemaking.

Echoing their comment on the NPRM for the 2020 Tip final rule, EPI asserted in their comment on this delay that the removal of the 20 percent limitation would result in transfers from workers to employers of more than $700 million annually.[36] They also note that this figure was calculated pre-COVID–19, and that the impact on workers would be worse during the pandemic. ROC United also acknowledged that the situation for tipped workers has changed during the pandemic, partly due to ''the rise in contactless service interactions and purchases, along with growth in app based delivery.'' They recommend that the Department's analysis take into consideration changes to workforce and employment practices as a result of the COVID–19 pandemic. The Department agrees that more time is needed to evaluate the Department's dual jobs regulations, including how the changes brought about by COVID–19 would impact the proposal.

Sixteen commenters agreed with EPI's analysis of the impact of the changes to the dual jobs regulations, and many asserted that the rule would harm women and people of color, both of whom are disproportionately represented in the tipped workforce. The NRA disagreed with this analysis, arguing that EPI's criticism of the 2020 Tip final rule ''rests on a flawed premise—*i.e.,* that current law reflects such a quantitative cap.'' They asserted that the baseline for any analysis of the 2020 Tip final rule should have been the guidance issued by WHD in 2018 and 2019, which rejects a quantitative limit on related non-tipped duties. The Department acknowledges that the baseline for both EPI's analysis and the 2020 Tip final rule measured the change from before the 2018–19 guidance was issued. The Department used this baseline in the 2020 Tip final rule in order to be transparent about the economic impact that would occur as a result of the 2018–19 guidance and the 2020 Tip final rule's changes to the dual jobs regulations, which largely codified that guidance. However, the Department believes that the criticisms raised by EPI are sufficiently serious to warrant further review, even if the Department ultimately concludes that it used the correct baseline.

Commenters raised serious concerns with the economic analysis of the dual jobs portion of the rule, asserting that the Department did not sufficiently consider the costs, benefits, and potential transfers of this portion of the rule. For example, the AGs and NELP said that the Department's reluctance to quantitatively estimate the impact of the dual jobs portion of the rule and consider the estimates of the rule's impact submitted by EPI and other groups in the course of that rulemaking is evidence that the rulemaking was arbitrary and capricious under the APA. The Department will consider these concerns with the 2020 Tip final rule's economic analysis, including whether the baseline for the economic analysis of the dual jobs portion of the 2020 Tip final rule was appropriate, in its comprehensive review of the dual jobs portion of the 2020 Tip final rule.

The Department does not believe that the delay in the CMP portions of the 2020 Tip final rule will have an impact on costs or transfers, as these provisions only apply when an employer violates the FLSA.

V. Regulatory Flexibility Act (RFA) Analysis

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (1996), requires federal agencies engaged in rulemaking to consider the impact of their proposals on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires the assessment of the impact of a regulation on a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Accordingly, the Department examined this rule to determine whether it will have a significant economic impact on a substantial number of small entities. The most recent data on private sector entities at the time this NPRM was drafted are from the 2017 Statistics of U.S. Businesses (SUSB).[37] The Department limited this analysis to the industries that were acknowledged to have tipped workers in the 2020 Tip final rule. These industries are classified under the North American Industry Classification System (NAICS) as 713210 (Casinos), 721110 (Hotels and Motels), 722410 (Drinking Places (Alcoholic Beverages)), 722511 (Full-service Restaurants), 722513 (Limited Service Restaurants), and 722515 (Snack and Nonalcoholic Beverage Bars). The SUSB reports that these industries have 503,915 private firms and 661,198 private establishments. Of these, 501,322 firms and 554,088 establishments have fewer than 500 employees.

The Department has not quantified any costs, transfers, or benefits associated with this delay, and therefore certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA)[38] requires agencies to prepare a written statement for rules with a federal mandate that may result in increased expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $165 million ($100 million in 1995 dollars adjusted for inflation) or more in

[35] Examples of such duties are cleaning and setting tables, toasting bread, making coffee, and occasionally washing dishes or glasses.

[36] Heidi Shierholz and Margaret Poydock, ''EPI Comments on the Department of Labor's Proposed Rule Regarding Tip Regulations,'' comments submitted on behalf of Economic Policy Institute to U.S. Department of Labor, December 10, 2019.

[37] Statistics of U.S. Businesses 2017, *https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html,* 2016 SUSB Annual Data Tables by Establishment Industry.

[38] *See* 2 U.S.C. 1501.

at least one year.[39] This statement must: (1) Identify the authorizing legislation; (2) present the estimated costs and benefits of the rule and, to the extent that such estimates are feasible and relevant, its estimated effects on the national economy; (3) summarize and evaluate state, local, and tribal government input; and (4) identify reasonable alternatives and select, or explain the non-selection, of the least costly, most cost-effective, or least burdensome alternative. This rule is not expected to result in increased expenditures by the private sector or by state, local, and tribal governments of $165 million or more in any one year.

VII. Executive Order 13132, Federalism

The Department has (1) reviewed this delay in accordance with Executive Order 13132 regarding federalism and (2) determined that it does not have federalism implications. The rule 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.

VIII. Executive Order 13175, Indian Tribal Governments

This rule will not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Signed this 23rd day of April, 2021.

Jessica Looman,

Principal Deputy Administrator, Wage and Hour Division.

[FR Doc. 2021–08927 Filed 4–28–21; 8:45 am]

BILLING CODE 4510–27–P

[39] Calculated using growth in the Gross Domestic Product deflator from 1995 to 2019. Bureau of Economic Analysis. Table 1.1.9. Implicit Price Deflators for Gross Domestic Product.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0170]

RIN 1625–AA00

Safety Zone; Sabine River, Orange, TX

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX. The safety zone is necessary to protect persons and vessels from hazards associated with a high-speed boat race competition in Orange, TX. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Marine Safety Unit Port Arthur or a designated representative.

DATES: This rule is effective from 8:30 a.m. through 6 p.m. on May 22, 2021 and May 23, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0170 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Scott Whalen, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone 409–719–5086, email *Scott.K.Whalen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On March 18, 2021, the City of Orange, TX notified the Coast Guard that it will be sponsoring high speed boat races from 8:30 a.m. to 6 p.m. on May 22 and 23, 2021, adjacent to the public boat ramp in Orange, TX. The Captain of the Port Port Arthur (COTP) has determined that potential hazards associated with high speed boat races would be a safety concern for spectator craft and vessels in the vicinity of these race events. In response, on April 6, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Sabine River, Orange, TX'' (86 FR 17755). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended April 21, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with hazards associated with high speed boat races.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Port Arthur (COTP) has determined that potential hazards associated with high speed boat races will be a safety concern for spectator craft and vessels in the vicinity of these race events. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 6, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 8:30 a.m. to 6 p.m. on May 22 and 23, 2021. The safety zone will cover all navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX bounded to the north by the Orange Public Wharf and latitude 30°05′50″ N and to the south at latitude 30°05′33″ N. The duration of the safety zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed boat races and will include breaks and opportunity for vessels to transit through the regulated area. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the proposed size, location and duration of the rule. The safety zone will encompass a less than half-mile stretch of the Sabine River for eight hours on each of two days. The Coast Guard will notify the public by issuing Local Notice to Mariners (LNM), and/or Marine Safety Information Bulletin (MSIB) and Broadcast Notice to Mariners via VHF–FM radio and the rule will allow vessels to seek permission to enter the zone during scheduled breaks.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that would last 8 hours on each of two days and that would prohibit entry on less than a half-mile stretch of the Sabine River in Orange, TX. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREA AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0170 to read as follows:

§ 165.T08–0170 Safety Zone; Sabine River, Orange, TX.

(a) *Location.* The following area is a safety zone: all navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX bounded to the north by the Orange Public Wharf and latitude 30°05′50″ N and to the south at latitude 30°05′33″ N. The duration of the safety zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed boat races and will include breaks and opportunity for vessels to transit through the regulated area.

(b) *Effective period.* This section is effective from 10 a.m. through 6 p.m. on May 22, 2021 and May 23, 2021.

(c) *Enforcement periods.* This section will be enforced from 10 a.m. through 6 p.m. daily.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative. They may be contacted on VHF–FM channel 13 or 16, or by phone at by telephone at 409–719–5070.

(2) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: April 22, 2021.

Molly A. Wike,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Zone Port Arthur.

[FR Doc. 2021–08875 Filed 4–28–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 10022–77–OW]

Notification of Funding for Credit Assistance Under the Water Infrastructure Finance and Innovation Act (WIFIA) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of funding availability (NOFA).

SUMMARY: In the Further Consolidated Appropriations Act, 2021, signed by the President on December 27, 2020, Congress provided $54.5 million in budget authority for the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) program to cover the subsidy required to provide a much larger amount of credit assistance. The Environmental Protection Agency (EPA or Agency) estimates that this budget authority may provide approximately $5.5 billion in credit assistance and may finance approximately $11 billion in water infrastructure investment. The purpose of this NOFA is to solicit letters of interest (LOIs) from prospective borrowers seeking credit assistance from EPA. EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in statute and regulation, and further described in this NOFA as well as the WIFIA program handbook. This NOFA establishes relative weights that will be used in the current LOI submittal period for the selection criteria, explains budgetary scoring factors to determine budgetary scoring compliance, and outlines the process that prospective borrowers should follow to be considered for WIFIA credit assistance. In addition, EPA reserves the right to make additional awards using FY 2021 appropriated funding or available carry-over resources, consistent with Agency policy and guidance, if additional funding is available after the original selections are made. This could include holding a subsequent selection round.

DATES: The LOI submittal period will begin on April 30, 2021, and end at 11:59 p.m. EDT on July 23, 2021.

ADDRESSES: Prospective borrowers should submit all LOIs electronically via email at: *wifia@epa.gov* or via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact *wifia@epa.gov* and request a link to the SharePoint site, where they can securely upload their LOIs. Requests to upload documents should be made no later than 5:00 p.m. EDT on July 21, 2021.

EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: *https://www.epa.gov/wifia/.*

SUPPLEMENTARY INFORMATION: For a project to be considered during a selection round, EPA must receive an LOI, via email or SharePoint, before the corresponding deadline listed above. EPA is only able to accept emails of 25 MB or smaller with unzipped attachments (EPA cannot accept zipped files). If necessary due to size restrictions, prospective borrowers may submit attachments separately, as long as they are received by the deadline.

When writing an LOI, prospective borrowers should fill out the WIFIA LOI form and follow the guidelines contained on the WIFIA program website: *https://www.epa.gov/wifia/wifia-application-materials.* Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate EPA's review. Additionally, prospective borrowers should ensure that financial information, including the pro forma financial statement, is in a formula-based Microsoft Excel document. Section VI of this NOFA provides additional details on the LOI's content.

EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by EPA within 365 days of the invitation to apply, but EPA may extend the deadline on a case-by-case basis if the LOI schedule signals additional time may be needed.

EPA will host a series of webinars to provide further information about submitting an LOI. The webinar schedule and registration instructions can be found on the WIFIA program website: *www.epa.gov/wifia.*

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to *wifia@epa.gov.* EPA will meet with all prospective borrowers interested in discussing the program, but only prior to submission of an LOI.

Table of Contents

I. Background
II. Program Funding
III. Eligibility Requirements
IV. Fiscal Year 2021 Office of Management and Budget Budgetary Scoring Determination
V. Types of Credit Assistance
VI. Letters of Interest and Applications
VII. Fees
VIII. Selection Criteria

I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901–3914, WIFIA authorizes a federal credit program for water infrastructure projects to be administered by EPA. WIFIA authorizes EPA to provide federal credit assistance in the form of secured (direct) loans or

loan guarantees for eligible water infrastructure projects.

The WIFIA program's mission is to accelerate investment in our nation's water and wastewater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water infrastructure projects of national and regional significance.

II. Program Funding

Congress appropriated $54.5 million in funding to cover the subsidy cost of providing WIFIA credit assistance. The subsidy cost covers the federal government's risk that the loan may not be paid back. EPA anticipates that the average subsidy cost for WIFIA-funded projects will be relatively low; therefore, this funding can be leveraged into a much larger amount of credit assistance. EPA estimates that this appropriation will allow the Agency to provide approximately $5.5 billion [1] in long-term, low-cost financing to water infrastructure projects and accelerate approximately $11 billion in infrastructure investment around the country.

III. Eligibility Requirements

The WIFIA statute and implementing rules set forth eligibility requirements for prospective borrowers, projects, and project costs. The requirements outlined below are described in greater detail in the WIFIA program handbook.

A. Eligible Applicants

Prospective borrowers must be one of the following to be eligible for WIFIA credit assistance:

(i) A corporation;

(ii) A partnership;

(iii) A joint venture;

(iv) A trust;

(v) A federal, state, or local governmental entity, agency, or instrumentality;

(vi) A tribal government or a consortium of tribal governments; or

(vii) A state infrastructure financing authority.

B. Eligible Projects

The WIFIA statute authorizes EPA to provide credit assistance for a wide variety of projects. Projects must be one of the following to be eligible for WIFIA credit assistance:

(i) One or more activities that are eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)), notwithstanding the public ownership requirement under paragraph (1) of that subsection;

(ii) One or more activities described in section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2));

(iii) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works;

(iv) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation);

(v) A brackish or sea water desalination project, including chloride control, a managed aquifer recharge project, a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion;

(vi) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds;

(vii) Acquisition of real property or an interest in real property—

(a) If the acquisition is integral to a project described in paragraphs (i) through (v); or

(b) Pursuant to an existing plan that, in the judgment of the Administrator, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section;

(viii) A combination of projects, each of which is eligible under paragraph (i) or (ii), for which a state infrastructure financing authority submits to the Administrator a single application; or

(ix) A combination of projects secured by a common security pledge, each of which is eligible under paragraphs (i), (ii), (iii), (iv), (v), (vi), or (vii), for which an eligible entity, or a combination of eligible entities, submits a single application.

C. Eligible Costs

As defined under 33 U.S.C. 3906 and described in the WIFIA program handbook, eligible project costs are costs associated with the following activities:

(i) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) Construction, reconstruction, rehabilitation, and replacement activities;

(iii) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to 33 U.S.C. 3905(8)), construction contingencies, and acquisition of equipment; and

(iv) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

D. Threshold Requirements

For a project to be considered for WIFIA credit assistance, a project must meet the following five criteria:

(i) The project and obligor shall be creditworthy;

(ii) A project shall have eligible project costs that are reasonably anticipated to equal or exceed $20 million, or for a project eligible under paragraph (2) or (3) of 33 U.S.C. 3905 serving a community of not more than 25,000 individuals, project costs that are reasonably anticipated to equal or exceed $5 million;

(iii) Project financing shall be repayable, in whole or in part, from state or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations;

(iv) In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a State or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking shall be publicly sponsored; and

(v) The applicant shall have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life.

E. Federal Requirements

All projects receiving WIFIA assistance must comply, if applicable, with federal requirements and regulations, including (but not limited to):

[1] This estimated loan volume is provided for reference only. Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the actual subsidy cost of providing credit assistance is based on individual project characteristics and calculated on a project-by-project basis. Thus, actual lending capacity may vary.

(i) American Iron and Steel Requirement, 33 U.S.C. 3914, *https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement;*

(ii) Labor Standards, 33 U.S.C. 1372, *https://www.dol.gov/whd/govcontracts/dbra.htm;*

(iii) National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq., https://www.epa.gov/nepa;*

(iv) Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, *https://www.archives.gov/federal-register/codification/executive-order/11988.html;*

(v) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c, *https://www.nps.gov/archeology/tools/laws/ahpa.htm;*

(vi) Clean Air Act, 42 U.S.C. 7401 *et seq., https://www.epa.gov/clean-air-act-overview;*

(vii) Clean Water Act, 33 U.S.C. 1251 *et seq., https://www.epa.gov/aboutepa/about-office-water;*

(viii) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq., https://www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html;*

(ix) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq., https://coast.noaa.gov/czm/about/;*

(x) Endangered Species Act, 16 U.S.C. 1531 *et seq., https://www.fws.gov/endangered/;*

(xi) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 59 FR 7629, February 16, 1994, *https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf;*

(xii) Protection of Wetlands, Executive Order 11990, 42 FR 26961, May 25, 1977, as amended by Executive Order 12608, 52 FR 34617, September 14, 1987, *https://www.epa.gov/cwa-404;*

(xiii) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq., https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275;*

(xiv) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended, *https://www.fws.gov/;*

(xv) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq., https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act;*

(xvi) National Historic Preservation Act, 16 U.S.C. 470 *et seq., https://www.nps.gov/archeology/tools/laws/NHPA.htm;*

(xvii) Safe Drinking Water Act, 42 U.S.C. 300f *et seq., https://www.epa.gov/ground-water-and-drinking-water;*

(xviii) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq., https://rivers.gov/;*

(xix) Debarment and Suspension, Executive Order 12549, 51 FR 6370, February 18, 1986, *https://www.archives.gov/federal-register/codification/executive-order/12549.html;*

(xx) Demonstration Cities and Metropolitan Development Act, 42 U.S.C. 3301 *et seq.,* as amended, and Executive Order 12372, 47 FR 30959, July 14, 1982, *http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning;*

(xxii) New Restrictions on Lobbying, 31 U.S.C. 1352, *https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans;*

(xxiii) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 38 FR 25161, September 12, 1973, *https://www.archives.gov/federal-register/codification/executive-order/11738.html;*

(xxiv) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq., https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf;*

(xxv) Age Discrimination Act, 42 U.S.C. 6101 *et seq., https://www.eeoc.gov/laws/statutes/adea.cfm;*

(xxvi) Equal Employment Opportunity, Executive Order 11246, 30 FR 12319, September 28, 1965, *https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm;*

(xxvii) Section 13 of the Clean Water Act, Public Law 92–500, codified in 42 U.S.C. 1251, *https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi;*

(xxviii) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 41 FR 17871, April 29, 1976 and 11250, 30 FR 13003, October 13, 1965, *https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi;*

(xxix) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq., https://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice;* and

(xxx) Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency Financial Assistance Agreements, 73 FR 15904, March 26, 2008, *https://www.epa.gov/resources-small-businesses.*

Detailed information about some of these requirements is outlined in the WIFIA program handbook. Further information can be found at the links above.

IV. Fiscal Year 2021 Office of Management and Budget Budgetary Scoring Determination

To comply with Public Law 116–260, a project selected for WIFIA financing using funding appropriated in FY 2021 will be assessed using two initial screening questions and sixteen scoring factors. These questions will help the Office of Management and Budget (OMB) determine compliance with budgetary scoring rules, a process that will be conducted in parallel to EPA's LOI evaluation process outlined in this NOFA. The questions may be found in **Federal Register** publication: Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to Public Law 116–94 85 FR 39189, June 30, 2020. These questions are also published in the WIFIA program handbook and further information about the scoring process may be referenced therein. EPA encourages project applicants to review the scoring criteria and provide sufficient information in the LOI or as an attachment to the LOI to facilitate EPA and OMB review of the prospective project in light of the scoring criteria. EPA may contact prospective borrowers after the LOI is submitted if clarification is needed to answer the budgetary scoring determination questions.

V. Types of Credit Assistance

Under WIFIA, EPA is permitted to provide credit assistance in the form of secured (direct) loans or loan guarantees. Each prospective borrower should list the estimated total capital costs of the project, broken down by activity type and differentiating between eligible project costs and ineligible project costs in the LOI and application.

A. Maximum Amount of WIFIA Credit Assistance

The maximum amount of WIFIA credit assistance to a project is 49 percent of eligible project costs in almost all instances.

B. Exception for Small Communities

Recognizing the need that exists in both small and large communities to invest in infrastructure, Congress stipulated in statute that EPA set aside 15 percent of the budget authority appropriated each year for small communities, defined as systems that serve a population of 25,000 or less. Of the funds set aside, any amount not

obligated by June 1 of the fiscal year for which budget authority is set aside may be used for any size community. Regardless of whether EPA obligates these funds by June 1 of the fiscal year for which budget authority is set aside, EPA will endeavor to use 15 percent of its budget authority for small communities.

EPA knows that small communities can face extraordinary challenges paying for needed water infrastructure projects. Therefore, EPA is offering small community prospective borrowers the opportunity to request credit assistance up to 80 percent of the eligible project costs in addition to a lower threshold for project costs (as explained in Section III.D(ii) of this NOFA) and the small community set aside. Small community needs represent a disproportionate amount of the overall water infrastructure needs nationwide. By offering credit assistance up to 80 percent, EPA is making a project's financing simpler and more accessible and reducing transaction costs for small communities, enabling them to finance and implement needed upgrades and improvements to their infrastructure.

VI. Letters of Interest and Applications

Each prospective borrower will be required to submit an LOI and, if invited, an application to EPA to be considered for approval. This section describes the LOI submission and application submission.

A. Letter of Interest (LOI)

Prospective borrowers seeking a WIFIA loan must submit an LOI describing the project fundamentals and addressing the WIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to EPA to: (i) Validate the eligibility of the prospective borrower and the prospective project, (ii) perform a preliminary creditworthiness assessment, (iii) perform a preliminary engineering feasibility assessment, and (iv) evaluate the project against the selection criteria. Based on its review of the information provided in the LOI, EPA will invite prospective borrowers to submit applications for their projects. Prospective borrowers are encouraged to review the WIFIA program handbook to help create the best justification possible for the project and a cohesive and comprehensive LOI submittal.

Prospective borrowers should utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for EPA's review. EPA will notify a prospective borrower if its project is deemed ineligible as described in Section III of this NOFA.

Below is guidance on what EPA recommends be included in the LOI.

A. *Key Loan Information.* In this section, the prospective borrower provides a general description of the project, purpose, loan amount, total eligible project costs, application submission date, loan close date, and population information. The prospective borrower also includes information such as its legal name, address, website, Dun and Bradstreet Data Universal Number System (DUNS) number, and employer/taxpayer identification number.

In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a state or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking must be publicly sponsored. Public sponsorship means that the prospective borrower can demonstrate, to the satisfaction of EPA, that it has consulted with the affected state, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. A prospective borrower can show support by including a certified letter signed by the approving state, tribal, or municipal department or similar agency; governor, mayor or other similar designated authority; statute or local ordinance; or any other means by which government approval can be evidenced.

B. *Engineering and Credit.* In this section, the prospective borrower provides any technical reports or written information relevant to evaluating the project and a high-level schedule of dates for the project or projects included in the LOI. To evaluate creditworthiness, the prospective borrower provides a credit rating letter that is less than a year old or is actively maintained. If the prospective borrower does not have a current rating letter, the borrower describes how the senior obligations of the project will achieve an investment-grade rating and includes a pro-forma and three years of audited financial statements.

C. *Selection Criteria.* In this section, the prospective borrower describes the potential policy benefits achieved using WIFIA assistance with respect to each of the WIFIA program selection criteria. These criteria and their weights are enumerated in Section VIII of this NOFA and further explained in the WIFIA program handbook.

D. *Contact Information.* In this section, the prospective borrower identifies the point of contact with whom the WIFIA program should communicate regarding the LOI. To complete EPA's evaluation, the WIFIA program staff may contact a prospective borrower regarding specific information in the LOI.

E. *Certifications.* In this section, the prospective borrower certifies that it will abide by all applicable laws and regulations, if selected to receive funding.

F. *SRF Notification.* In this section, the prospective borrower acknowledges that EPA will notify the state infrastructure financing authority in the state in which the project is located that it submitted an LOI and provide the submitted LOI and source documents to that authority. The prospective borrower may opt out of having its LOI and source documents shared.

B. Application

After EPA concludes its evaluation of the LOIs, a selection committee invites prospective borrowers to apply based on the scoring of the selection criteria, while taking into consideration geographic and project diversity. The selection committee may choose to combine multiple LOIs or separate projects from a prospective borrower based on the creditworthiness review and may offer an alternative amount of WIFIA assistance than requested in the LOI.

An invitation to apply for WIFIA credit assistance does not guarantee EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to EPA, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that EPA will only invite projects to apply if it anticipates that those projects are able to obtain WIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the WIFIA program handbook.

VII. Fees

There is no fee to submit an LOI. For information about application and post-closing costs, please refer to the WIFIA fee rule, Fees for Water Infrastructure Project Applications under WIFIA, 40 CFR 35.10080.

VIII. Selection Criteria

This section specifies the criteria and process that EPA will use to evaluate

LOIs and award applications for WIFIA assistance.

The selection criteria described below incorporate statutory eligibility requirements, supplemented by the WIFIA regulations at 40 CFR 35.10055. EPA has also identified the following strategic objectives as priorities for this LOI submittal period:

(i) *Economically stressed communities:* To support EPA's goal of considering equity and environmental justice in various aspects of our work, EPA is committed to increasing access to financing for water and wastewater infrastructure projects for communities experiencing economic hardship. EPA is prioritizing projects that support improved water infrastructure in economically stressed communities. Communities that meet national benchmarks will receive additional points.

(ii) *Protection against extreme weather events:* As extreme weather events become increasingly common and continue to damage critical infrastructure that provide water and wastewater services to communities across the nation, EPA is prioritizing financing for projects that protect the nation's water infrastructure from the impacts of climate change.

(iii) *Repair, rehabilitate, and replace aging infrastructure and conveyance systems:* Many communities face formidable challenges in providing adequate and reliable water and wastewater services. Existing water and wastewater infrastructure is aging, and investment is not always keeping up with the needs. EPA is prioritizing projects that will help meet these needs for the nation's aging infrastructure.

(iv) *Lead and emerging contaminants:* EPA is working to strengthen its implementation of the Safe Drinking Water Act to ensure we protect and build upon the enormous public health benefits achieved through the provision of safe drinking water throughout the country. To reflect this priority, EPA will give greater consideration to projects that reduce exposure to lead and address emerging contaminants including per- and polyfluoroalkyl substances (PFAS).

(v) *New or innovative approaches:* To promote the incorporation of new and innovative approaches into projects, EPA is prioritizing projects that incorporate innovative approaches such as but not limited to the following: Cybersecurity; the use of energy efficient parts and systems; the use of renewable or alternative sources of energy; green infrastructure; and the development of alternative sources of drinking water through, for example, desalination, aquifer recharge or water recycling, and resource recovery.

EPA's priorities reflect water sector challenges that require innovative tools to assist local governments in managing and adapting to our most pressing public health and environmental challenges. These priorities are reflected in the scoring methodology of the selection criteria below, described in greater detail in the WIFIA program handbook.

The WIFIA selection criteria are divided into three categories: Project Impact, Project Readiness, and Borrower Creditworthiness. Each criterion within a category can provide a range of points with the maximum number of points indicated. Each category can provide up to 100 points out of a total of 300 available points, and the category-specific and overall scores will help inform the selection committee's deliberations within the overall WIFIA framework. For the Project Readiness and Borrower Creditworthiness categories, criteria scores are supplemented by points awarded from the preliminary engineering feasibility analysis and preliminary creditworthiness assessment, respectively, described in the WIFIA program handbook. The criteria are as follows:

Project Impact:

(i) *5 points:* The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce. 33 U.S.C. 3907(b)(2)(A); 40 CFR 35.10055(a)(1).

(ii) *20 points:* The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment: 33 U.S.C. 3907(b)(2)(F); 40 CFR 35.10055(a)(4); 40 CFR 35.10055(a)(5).

(iii) *5 points:* The extent to which the project serves regions with significant energy exploration, development, or production areas: 33 U.S.C. 3907(b)(2)(G); 40 CFR 35.10055(a)(6).

(iv) *5 points:* The extent to which a project serves regions with significant water resource challenges, including the need to address: (1) Water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(v) *5 points:* The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(vi) *20 points:* The extent to which the project addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system. 40 CFR 35.10055(a)(12).

(vii) *20 points:* The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities. 40 CFR 35.10055(a)(13).

(viii) *20 points:* The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emergent contaminants. 40 CFR 35.10055(b).

Project Readiness:

(i) *40 points:* The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); 40 CFR 35.10055(a)(9).

(ii) *40 points:* Preliminary engineering feasibility analysis score. 33 U.S.C. 3907(a)(2); 33 U.S.C. 3907(a)(6); 40 CFR 35.10015(c); 40 CFR 35.10045(a).

(iii) *20 points:* The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

Borrower Creditworthiness:

(i) *10 points:* The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); 40 CFR 35.10055(a)(2).

(ii) *10 points:* The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); 40 CFR 35.10055(a)(10).

(iii) *10 points:* The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); 40 CFR 35.10055(a)(11).

(iv) *10 points:* The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) *60 points:* Preliminary creditworthiness assessment score. 33 U.S.C. 3907(a)(1); 40 CFR 35.10015(c); 40 CFR 35.10045(a)(1); 40 CFR 35.10045(a)(4); 40 CFR 35.10045(b).

In addition to the selection criteria score, EPA is required by 33 U.S.C. 3902(a) to ''ensure a diversity of project types and geographical locations.''

Following analysis by the WIFIA program staff, a final score is calculated for each project. Projects will be selected in order of score, subject to the requirement to ensure a diversity of project types and geographical locations. To ensure diversity, EPA will establish a ceiling for each project type and geographical location. EPA will select projects in rank order up until the point that the ceiling is reached. Thereafter, the next highest project that adds diversity will be selected.

The scoring scales and guidance used to evaluate each project against the selection criteria are available in the WIFIA program handbook. Prospective borrowers considering WIFIA should review the WIFIA program handbook and discuss how the project addresses each of the selection criteria in the LOI submission.

Authority: 33 U.S.C. 3901–3914; 40 CFR part 35.

Michael S. Regan,

Administrator.

[FR Doc. 2021–08867 Filed 4–28–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 10022–78–OW]

Notification of Funding for Credit Assistance Under the State Infrastructure Finance Authority Water Infrastructure Finance and Innovation Act (SWIFIA) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of funding availability (NOFA).

SUMMARY: In the Consolidated Appropriations Act, 2021, signed by the President on December 27, 2020, Congress provided $5 million in budget authority solely for the cost of direct loans or guaranteed loans to state infrastructure financing authority borrowers for projects described in the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). The state infrastructure financing authority WIFIA (SWIFIA) program will use this amount to cover the subsidy required to provide a much larger amount of credit assistance. Environmental Protection Agency (EPA or Agency) estimates that this budget authority may provide approximately $1 billion in credit assistance and may finance approximately $2 billion in water infrastructure investment. The purpose of this NOFA is to solicit letters of interest (LOIs) from prospective state infrastructure financing authority borrowers seeking credit assistance from EPA under the SWIFIA program. EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in the statute, and further described in this NOFA as well as the WIFIA program handbook. This NOFA explains budgetary scoring factors to determine budgetary scoring compliance and outlines the process that prospective borrowers should follow to be considered for SWIFIA credit assistance. In addition, EPA reserves the right to make additional awards under this announcement, consistent with Agency policy and guidance, if additional funding is available after the original selections are made.

DATES: The LOI submittal period will begin on April 30, 2021, and end at 11:59 p.m. EDT on June 25, 2021.

ADDRESSES: Prospective borrowers should submit all LOIs electronically via email at: *wifia@epa.gov* or via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact *wifia@epa.gov* and request a link to the SharePoint site, where they can securely upload their LOIs. Requests to upload documents should be made no later than 5 p.m. EDT on June 21, 2021.

EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: *https://www.epa.gov/wifia.*

SUPPLEMENTARY INFORMATION: For a project to be considered during a selection round, EPA must receive an LOI, via email or SharePoint, before the corresponding deadline listed above. EPA is only able to accept emails of 25 MB or smaller with unzipped attachments (EPA cannot accept zipped files). If necessary due to size restrictions, prospective borrowers may submit attachments separately, as long as they are received by the deadline.

When writing an LOI, prospective borrowers should complete the SWIFIA LOI form and follow the guidelines contained on the WIFIA program website: *https://www.epa.gov/wifia/wifia-application-materials.* Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate EPA's review. Section VI of this NOFA provides additional details on the LOI's content.

EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by EPA within 365 days of the invitation to apply.

EPA will host a webinar to provide state infrastructure finance authority prospective borrowers further information about the SWIFIA loans and how to submit an LOI. The webinar date and registration directions can be found on the WIFIA program website: *https://www.epa.gov/wifia/wifia-webinars.*

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to *wifia@epa.gov.* EPA will meet with all prospective borrowers interested in discussing the program prior to submission of an LOI.

Table of Contents

I. Background
II. Program Funding
III. Program Priorities
IV. Eligibility Requirements
V. Fiscal Year 2021 Office of Management and Budget Budgetary Scoring Determination
VI. Types of Credit Assistance
VII. Letters of Interest and Applications
VIII. Fees
IX. Selection Criteria

I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901–3914, WIFIA authorizes a federal credit program for water infrastructure projects to be administered by EPA. WIFIA authorizes EPA to provide federal credit assistance in the form of secured (direct) loans or loan guarantees for eligible water infrastructure projects.

Congress amended WIFIA in America's Water Infrastructure Act of 2018 (AWIA) to authorize federal credit assistance exclusively for state infrastructure financing authority borrowers.

The WIFIA program's mission is to accelerate investment in our nation's water infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water infrastructure

projects of national and regional significance.

II. Program Funding

Congress appropriated $5 million in funding to cover the subsidy cost of providing SWIFIA credit assistance. The subsidy cost covers the federal government's risk that the loan may not be paid back. EPA anticipates that the average subsidy cost for SWIFIA-funded projects will be relatively low; therefore, this funding can be leveraged into a much larger amount of credit assistance. EPA estimates that this appropriation will allow the Agency to provide approximately $1 billion [1] in long-term, low-cost financing to water infrastructure projects and accelerate approximately $2 billion in infrastructure investment around the country.

III. Program Priorities

This year, EPA identified the following priorities to address the water sector's most pressing public health and environmental challenges:

(i) *Protection against extreme weather events:* As extreme weather events become increasingly common and continue to damage critical infrastructure that provide water and wastewater services to communities across the nation, EPA is prioritizing financing for projects that protect the nation's water from the impacts of climate change.

(ii) *Repair, rehabilitate, and replace aging infrastructure and conveyance systems:* Many communities face formidable challenges in providing adequate and reliable water and wastewater services. Existing water and wastewater infrastructure is aging, and investment is not always keeping up with the needs. EPA is prioritizing projects that will help meet these needs for the nation's aging infrastructure.

(iii) *Economically stressed communities:* To support EPA's goal of considering equity in various aspects of our work, EPA is committed to increasing access to financing for water and wastewater infrastructure projects for communities experiencing economic hardship. EPA is prioritizing projects that support improved water infrastructure in economically stressed communities.

(iv) *Lead and emerging contaminants:* EPA is working to strengthen its implementation of the Safe Drinking Water Act to ensure we protect and build upon the enormous public health benefits achieved through the provision of safe drinking water throughout the country. EPA will give greater consideration to projects that reduce exposure to lead and address emerging contaminants including per- and polyfluoroalkyl substances (PFAS).

(v) *New or innovative approaches:* To promote the incorporation of new and innovative approaches into projects, EPA is prioritizing projects that incorporate innovative approaches such as but not limited to the following: Cybersecurity; the use of energy efficient parts and systems; the use of renewable or alternative sources of energy; green infrastructure; and the development of alternative sources of drinking water through, for example, desalination, aquifer recharge or water recycling, and resource recovery.

IV. Eligibility Requirements

The WIFIA statute and implementing rules set forth eligibility requirements for prospective borrowers, projects, and project costs. The requirements outlined below are described in greater detail in the WIFIA program handbook.

A. Eligible Applicants

Prospective borrowers must be a state infrastructure financing authority to be eligible for SWIFIA credit assistance. EPA defines state infrastructure financing authority as the state entity established or designated by the Governor of a state to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et. seq.) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

B. Eligible Projects

To be eligible for SWIFIA credit assistance, the SWIFIA project must be a combination of projects, each of which is eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)), for which a state infrastructure financing authority submits to the Administrator a single application.

C. Eligible Costs

As defined under 33 U.S.C. 3906 and described in the WIFIA program handbook, eligible project costs are costs associated with the following activities:

(i) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) Construction, reconstruction, rehabilitation, and replacement activities;

(iii) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to 33 U.S.C. 3905(8)), construction contingencies, and acquisition of equipment; and

(iv) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

D. Threshold Requirements

For a project to be considered for SWIFIA credit assistance, a SWIFIA project must meet the following four criteria:

(i) The project and obligor shall be creditworthy;

(ii) A project shall have eligible project costs that are reasonably anticipated to equal or exceed $20 million;

(iii) Project financing shall be repayable, in whole or in part, from state or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations;

(iv) The project shall have an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life.

E. Federal Requirements

All projects receiving SWIFIA assistance must comply, if applicable, with federal requirements and regulations, including (but not limited to):

(i) American Iron and Steel Requirement, 33 U.S.C. 3914, *https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement;*

(ii) Labor Standards, 33 U.S.C. 1372, *https://www.dol.gov/whd/govcontracts/dbra.htm;*

[1] This estimated loan volume is provided for reference only. Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the actual subsidy cost of providing credit assistance is based on individual project characteristics and calculated on a project-by-project basis. Thus, actual lending capacity may vary.

(iii) National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq., https://www.epa.gov/nepa;*

(iv) Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, *https://www.archives.gov/federal-register/codification/executive-order/11988.html;*

(v) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c, *https://www.nps.gov/archeology/tools/laws/ahpa.htm;*

(vi) Clean Air Act, 42 U.S.C. 7401 *et seq., https://www.epa.gov/clean-air-act-overview;*

(vii) Clean Water Act, 33 U.S.C. 1251 *et seq., https://www.epa.gov/aboutepa/about-office-water;*

(viii) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq., https://www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html;*

(ix) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq., https://coast.noaa.gov/czm/about/;*

(x) Endangered Species Act, 16 U.S.C. 1531 *et seq., https://www.fws.gov/endangered/;*

(xi) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 59 FR 7629, February 16, 1994, *https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf;*

(xii) Protection of Wetlands, Executive Order 11990, 42 FR 26961, May 25, 1977, as amended by Executive Order 12608, 52 FR 34617, September 14, 1987, *https://www.epa.gov/cwa-404;*

(xiii) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq., https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275;*

(xiv) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended, *https://www.fws.gov/;*

(xv) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq., https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act;*

(xvi) National Historic Preservation Act, 16 U.S.C. 470 *et seq., https://www.nps.gov/archeology/tools/laws/NHPA.htm;*

(xvii) Safe Drinking Water Act, 42 U.S.C. 300f *et seq., https://www.epa.gov/ground-water-and-drinking-water;*

(xviii) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq., https://rivers.gov/;*

(xix) Debarment and Suspension, Executive Order 12549, 51 FR 6370, February 18, 1986, *https://www.archives.gov/federal-register/codification/executive-order/12549.html;*

(xx) Demonstration Cities and Metropolitan Development Act, 42 U.S.C. 3301 *et seq.,* as amended, and Executive Order 12372, 47 FR 30959, July 14, 1982, *http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning;*

(xxii) New Restrictions on Lobbying, 31 U.S.C. 1352, *https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans;*

(xxiii) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 38 FR 25161, September 12, 1973, *https://www.archives.gov/federal-register/codification/executive-order/11738.html;*

(xxiv) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq., https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf;*

(xxv) Age Discrimination Act, 42 U.S.C. 6101 *et seq., https://www.eeoc.gov/laws/statutes/adea.cfm;*

(xxvi) Equal Employment Opportunity, Executive Order 11246, 30 FR 12319, September 28, 1965, *https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm;*

(xxvii) Section 13 of the Clean Water Act, Public Law 92–500, codified in 42 U.S.C. 1251, *https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi;*

(xxviii) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 41 FR 17871, April 29, 1976 and 11250, 30 FR 13003, October 13, 1965, *https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi;*

(xxix) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq., https://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice;* and

(xxx) Participation by Disadvantaged Business Enterprises in Procurement under the Environmental Protection Agency Financial Assistance Agreements, 73 FR 15904, March 26, 2008, *https://www.epa.gov/resources-small-businesses.*

Detailed information about some of these requirements is outlined in the WIFIA program handbook. Further information can be found at the links above.

V. Fiscal Year 2021 Office of Management and Budget Budgetary Scoring Determination

To comply with Public Law 116–260, a project selected for WIFIA financing using funding appropriated in FY 2021 will be assessed using two initial screening questions and sixteen scoring factors. These questions will help the Office of Management and Budget (OMB) determine compliance with budgetary scoring rules, a process that will be conducted in parallel to EPA's LOI evaluation process outlined in this NOFA. The questions may be found in the **Federal Register** publication: Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to Public Law 116–94 [85 FR 39189, June 30, 2020]. These questions are also published in the WIFIA program handbook and further information about the scoring process may be referenced therein. EPA encourages project applicants to review the scoring criteria and provide sufficient information in the LOI or as an attachment to the LOI to facilitate EPA and OMB review of the prospective project considering the scoring criteria. EPA may contact prospective borrowers after the LOI is submitted if clarification is needed to answer the budgetary scoring determination questions.

VI. Types of Credit Assistance

Under SWIFIA, EPA is offering senior, parity loans to help state infrastructure finance authorities lend to multiple projects throughout the state. The maximum amount of SWIFIA credit assistance to a state infrastructure financing authority is 49 percent of estimated eligible total costs of the State Revolving Funds (SRF) loans that are included in the SWIFIA project. Prospective SWIFIA borrowers may request one the following loan structures:

(i) EPA accepts the state infrastructure financing authority's existing indenture; or

(ii) The state infrastructure financing authority accepts EPA's standard terms. More information on EPA's standard terms is available at *www.epa.gov/wifia.*

SWIFIA credit assistance is available for SRF projects which are ready to proceed. For construction projects, EPA considers an SRF project ready to proceed if its construction will commence no later than 24 months after the LOI deadline. For planning and design projects, the requirement for construction to commence no later than 24 months after the LOI deadline is not applicable.

VII. Letters of Interest and Applications

Each prospective borrower will be required to submit an LOI and, if invited, an application to EPA to be considered for approval. This section describes the LOI submission and application submission.

A. Letter of Interest (LOI)

Prospective borrowers seeking a SWIFIA loan must submit an LOI describing the project fundamentals and addressing the SWIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to EPA to validate the eligibility and creditworthiness of the prospective borrower and the prospective project and determine the extent to which the SWIFIA project meets the statutory selection criteria. Based on its review of the information provided in the LOI, EPA will invite prospective borrowers to submit applications for their projects.

Prospective borrowers are encouraged to utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for EPA's review. EPA will notify a prospective borrower if its project is deemed ineligible as described in Section III of this NOFA.

Below is guidance on what EPA recommends be included in the LOI.

A. *Loan Information:* The prospective borrower provides information about its legal name, business address, program website, employer/taxpayer identification number, Dun and Bradstreet Data Universal Number System number, requested SWIFIA loan amount and SWIFIA project amount, type of SRF loans (clean water, drinking water, or both), and requested loan structure.

B. *Supporting Documents:* The prospective borrower provides the most recent version of the following documents: Intended Use Plan (IUP), SRF Operating Agreements with EPA Regional Office, documentation of the priority setting system, and bond indenture (if applicable).

C. *Contact Information:* The prospective borrower identifies the points of contact with whom the WIFIA program should communicate regarding the LOI. To complete EPA's evaluation, the WIFIA program staff may contact a prospective borrower regarding specific information in the LOI.

D. *Certifications:* The prospective borrower certifies that it will abide by all applicable laws and regulations, if selected to receive funding.

B. Application

After EPA concludes its evaluation of the LOIs, a selection committee will invite prospective borrowers to apply. EPA expects that all eligible state infrastructure financing authority prospective borrowers will be invited to apply for a SWIFIA loan. If the amount requested by prospective borrowers exceeds the amount available from EPA, each eligible state infrastructure financing authority prospective borrowers will be invited for a pro rata share, based on the financing request outlined in their LOIs. If a prospective borrower declines EPA's invitation, EPA would re-allocate to other eligible prospective borrowers to the extent practicable or carry the funding forward to a future round.

An invitation to apply for WIFIA credit assistance does not guarantee EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to the Agency, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that EPA will only invite prospective borrowers to apply if it anticipates that those prospective borrowers are able to obtain WIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the WIFIA program handbook.

VIII. Fees

There is no fee to submit an LOI. For information about application and post-closing costs, please refer to the WIFIA fee rule, Fees for Water Infrastructure Project Applications under WIFIA, 40 CFR 35.10080.

IX. Selection Criteria

This section specifies the criteria and process that EPA will use to evaluate LOIs and award applications for SWIFIA assistance.

The selection criteria described are the statutory selection criteria for state infrastructure finance authority borrowers. For SWIFIA loans, EPA has identified readiness to proceed as a priority for this LOI submittal period. To ensure the efficient use of limited federal resources for infrastructure finance, the readiness of the SRF loans included in the SWIFIA project to proceed toward development, including loan closing and the commencement of construction, is an Agency priority.

Following its eligibility determination, EPA will determine the extent to which the SWIFIA project meets the statutory selection criteria. They are as follows:

(i) The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); 40 CFR 35.10055(a)(10).

(ii) The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); 40 CFR 35.10055(a)(2).

(iii) The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

(iv) The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment. 33 U.S.C. 3907(b)(2)(F); 40 CFR 35.10055(a)(4); 40 CFR 35.10055(a)(5).

(vi) The extent to which the project serves regions with significant energy exploration, development, or production areas. 33 U.S.C. 3907(b)(2)(G); 40 CFR 35.10055(a)(6).

(vii) The extent to which a project serves regions with significant water resource challenges, including the need to address: (1) Water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(viii) The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(ix) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); 40 CFR 35.10055(a)(9).

(x) The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); 40 CFR 35.10055(a)(11).

Authority: 33 U.S.C. 3901–3914; 40 CFR part 35.

Michael S. Regan,

Administrator.

[FR Doc. 2021–08865 Filed 4–28–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 19–311, 13–249; FCC 20–154; FRS 22220]

All-Digital AM Broadcasting, Revitalization of the AM Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget has approved a revision to the information collection requirements under OMB Control Number 3060–1034 associated with new or amended rules adopted in the Federal Communications Commission's *All-Digital AM Broadcasting Report and Order,* FCC 20–154, governing the contents of all-digital notifications submitted using the Digital Notification Form, FCC Form 335–AM, and that compliance with these rules is now required. This document is consistent with the *All-Digital AM Broadcasting Report and Order,* which states that the Commission will publish a document in the **Federal Register** announcing the effective date for these new or amended rule sections and revise the rules accordingly.

DATES: The addition of 47 CFR 73.406, published at 85 FR 78022 on December 3, 2020, is effective April 29, 2021.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, Office of the Managing Director, Federal Communications Commission, at (202) 418–2918 or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that the Office of Management and Budget (OMB) approved the information collection requirements in 47 CFR 73.406 on April 14, 2021. This rule section was adopted in the *All-Digital AM Broadcasting Report and Order,* FCC 20–154 (85 FR 78022, December 3, 2020). The Commission publishes this document as an announcement of the effective date for these new or amended rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 3.317, 45 L Street NE, Washington, DC 20554, regarding OMB Control Number 3060–1034. Please include the OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.* 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 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received final OMB approval on April 14, 2021, for the information collection requirements contained in 47 CFR 73.406. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number for the information collection requirements in 47 CFR 73.406 is 3060–1034.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1034.

OMB Approval Date: April 14, 2021.

OMB Expiration Date: April 30, 2024.

Title: Digital Audio Broadcasting Systems and their Impact on the Terrestrial Radio Broadcast Service; Digital Notification, FCC Form 335.

Form Number: FCC Form 335–AM.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 270 respondents; 270 responses.

Estimated Time per Response: 1 hour–8 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 154(i), 303, 310, and 553 of the Communications Act of 1934, as amended.

Total Annual Burden: 490 hours.

Total Annual Cost: $197,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On October 27, 2020, the Commission released the *All-Digital AM Broadcasting Report and Order,* FCC 20–154, MB Dockets 19–311, 13–249, where it adopted rules to allow AM radio stations, on a voluntary basis, to broadcast an all-digital signal using the HD radio in-band on-channel (IBOC) mode name MA3. This action benefits AM stations and their listeners by improving reception quality and listenable signal coverage in stations' service areas and by advancing the Commission's goal of improving the AM service, thereby helping to ensure the future of the service. AM broadcast station licensees are required to notify the Commission of a change to all-digital operations using Digital Notification Form, FCC Form 335–AM. Specifically pertaining to this Information Collection, in the *All-Digital AM Broadcasting Report and Order,* the Commission requires AM broadcast stations to electronically file a digital notification using the existing FCC Form 335–AM Digital Notification (or any successor notification form) to notify the Commission of the following changes: (1) The commencement of new all-digital operation; (2) an increase in nominal power of an all-digital AM station; or (3) a transition from core-only to enhanced operating mode. Although we direct broadcasters to use the current Form 335–AM for all-digital notifications, additional information is required for notification of AM all-digital operations specifically. Therefore, until the Form 335–AM is updated to display the new all-digital operation requirements, we direct filers to select ''N/A'' as appropriate within the form and submit an attachment containing the following information. These new all-digital AM notification requirements have been added to new § 73.406 of the Commission's rules.

(a) The type of notification (all-digital notification, increase in nominal power, reduction in nominal power, transition from core-only to enhanced, transition from enhanced to core-only, reversion from all-digital to hybrid or analog operation);

(b) the date that new or modified all-digital operation will commence or has ceased;

(c) a certification that the all-digital operations will conform to the relevant

nominal power and spectral emissions limits;

(d) the nominal power of the all-digital station;

(e) a certification that the all-digital station complies with all EAS requirements; and

(f) if a notification of commencement of new all-digital service or a nominal power change, whether the station is operating in core-only or enhanced mode.

The *All-Digital AM Broadcasting Report and Order* also revises and reorganizes the digital notification requirements formally contained in § 73.404(e) of the rules by removing § 73.404(e) and adding new § 73.406 notification.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–08424 Filed 4–28–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[RTID 0648–XA603]

Fisheries off West Coast States; West Coast Salmon Fisheries; Amendment 20 to the Pacific Coast Salmon Fishery Management Plan

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

ACTION: Notification of agency decision.

SUMMARY: NMFS announces the approval of Amendment 20 to the Pacific Fishery Management Council's (Council) Pacific Coast Salmon Fishery Management Plan (FMP). Amendment 20 modifies the preseason schedule for implementing annual management measures and moves the southern boundary of the Klamath Management Zone (KMZ) 5 nautical miles (nmi) (9.3 km) north of its current location. In addition, Amendment 20 updates out-of-date language in the FMP.

DATES: The amendment was approved on April 22, 2021.

ADDRESSES: The amended FMP is available on the Council's website (*www.pcouncil.org*). The final National Environmental Policy Act environmental assessment (EA) is available on the NMFS website at *https://www.fisheries.noaa.gov/west-coast/laws-and-policies/west-coast-salmon-harvest-nepa-documents.*

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries in the exclusive economic zone (3–200 nmi) (5.6–370.4 km) off Washington, Oregon, and California are managed under the FMP. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires that each regional fishery management council submit any FMP or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The MSA also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notification that the FMP or amendment is available for public review and comment.

The Notice of Availability (NOA) for Amendment 20 was published in the **Federal Register** on February 9, 2021 (86 FR 8750), with a 60-day comment period that ended on April 12, 2021. In the NOA, NMFS also announced a draft EA analyzing the environmental impacts of the actions implemented under Amendment 20 was available for public review and comment. NMFS received three comments during the public comment period on the NOA. The comments all expressed concern about potential fishery impacts on salmon stocks of concern from the KMZ boundary change. However, upon review, and informed by the analysis of the Council's Salmon Technical Team, NMFS concluded that any change in ocean salmon fishery impacts on salmon stocks of concern would be small and NMFS is not disapproving any part of Amendment 20 in response to these comments. NMFS summarized and responded to these comments under Comments and Responses, below.

NMFS determined that Amendment 20 is consistent with the MSA and other applicable laws, and the Secretary of Commerce approved Amendment 20 on April 22, 2021. The February 9, 2021, NOA contains additional information on this action. No changes to Federal regulations are necessary to implement the Amendment.

Amendment 20 was developed by the Council to address two primary issues: The preseason schedule for setting annual management measures, and the southern boundary of the KMZ in California. Under Amendment 20, the Council also recommended updating outdated language, typographical errors, and references. The Council adopted Amendment 20 at its September 2020 meeting.

Preseason Schedule

Amendment 20 changes the preseason schedule for NMFS to publish the annual management measures in the **Federal Register**. Under the previous schedule, NMFS published the annual management measures in the first week of May, which corresponds with the traditional May 1 start date for many ocean salmon fisheries. However, it has become increasingly challenging for the Council and NMFS to complete the necessary environmental and economic analyses and regulatory documentation following the April Council meeting in time for the Secretary of Commerce to approve and implement the Council's annual recommendation by May 1. Amendment 20 changes the schedule such that NMFS will publish the annual management measures in the second or third week of May, with an anticipated effective date of May 16. The annual management measures will include expected salmon fisheries for March through early May of the following year (*e.g.,* regulations for the 2021 fishing year will including management measures for fisheries in March through May of 2022), pending modification through inseason action as needed in response to updated stock abundance forecasts. This has been the practice for March and April salmon fisheries since at least 1994.

KMZ Southern Boundary

The Council uses management boundaries and zones to manage the ocean salmon fishery consistent with the objectives in the FMP. The KMZ is a long-standing management zone that has extended from Humbug Mountain, OR, to Horse Mountain, CA, since at least 1990. Amendment 20 moves the southern boundary of the KMZ to align the salmon management boundary with an existing management boundary in the groundfish fishery, and to allow for increased efficiency in salmon fishery operations.

FMP Language Updates

Amendment 20 updates the text of the FMP to reflect changes to management reference points that were previously implemented through a rulemaking (80 FR 19564, April 13, 2015) for Southern Oregon coastal Chinook salmon, Grays Harbor fall-run Chinook salmon, and Willapa Bay natural coho salmon stocks. The reference points included in that action have been used in salmon fishery management since the final rule implementing them was promulgated.

Other updates to the FMP included in Amendment 20 include: Updates to reflect the 2013 merger of NMFS'

Northwest and Southwest Regions, updates to the status and terminology of Endangered Species Act (ESA)-listed salmon evolutionarily significant units (ESU), dates for updated management agreements and treaties, and updated references.

Comments and Responses

During the public comment period for the NOA for Amendment 20, NMFS received three unique comments from three members of the public. NMFS's responses to these comments are presented below.

Comment 1: One commenter expressed concern that the schedule change could result in increased fishing before inseason actions could be implemented and enforced and that this, in combination with the KMZ boundary move, would cause damage to the salmon population. The commenter recommended moving the date of the April Council meeting as a solution.

Response: The Council's preseason process for salmon management includes a critical analysis of updated stock abundance forecasts and potential impacts from ocean salmon fisheries. The Council and NMFS have managed pre-May ocean salmon fisheries in response to updated forecast and fishery information for many years, often utilizing inseason management in conjunction with the March and-or April Council meetings to limit salmon fishery impacts. Salmon fishery impacts from pre-May fisheries are managed collectively with salmon fisheries from the rest of the year to meet stock-specific objectives in the FMP on an annual basis, based on stock abundance forecasts for the year. Moving the date of the annual rule to mid-May will not affect how fishery impacts are accounted for.

Moving the April Council meeting to an earlier date would not allow the Council to fully consider impacts on U.S. salmon stocks from northern salmon fisheries in Alaska and British Columbia. Under the Pacific Salmon Treaty (January 2020), the Pacific Salmon Commission has until April 1 to provide fishery impact model results and total allowable catch (TAC) information for Alaska and British Columbia salmon fisheries to the U.S. Commissioner, who reports that information to the Council at the April meeting. This information is among the suite of data used to develop the Council's annual management measures, which must meet the conservation and management criteria in the FMP and the provisions of the Pacific Salmon Treaty, in addition to any criteria for limiting impacts on species listed as threatened or endangered under the ESA.

Comment 2: One commenter submitted three identical comments. These comments referred to the draft EA that was prepared for Amendment 20. The commenter expressed support for boundary change Alternative 1.3 to reduce uncertainty of fishery impacts on salmon stocks listed under the ESA. The commenter was overall complimentary of the analysis in the draft EA, but felt social, cultural, and environmental justice analysis was lacking.

Response: NMFS appreciates the commenter's review of the draft EA. The Council recommended Alternative 1.2 to NMFS for approval by the Secretary of Commerce.

The EA for this action acknowledged the uncertainty associated with the boundary change, but concluded that the actions implemented under Amendment 20 will not significantly impact the quality of the human environment. Fisheries in the area affected by the boundary change have historically been closed to commercial fishing and, with the boundary change, could experience some level of commercial fishing consistent with management in the Fort Bragg management area. Fisheries in this area are managed using season, gear, species, and size limits to ensure catch of the target stocks is consistent with annual catch limits (ACLs), conservation objectives, and that impacts to salmon ESUs listed under the ESA as threatened or endangered are consistent with biological opinions. The Council's Salmon Technical Team (STT) concluded that the boundary change could lead to small effort shifts, but that these did not warrant any changes to model inputs for predicting the effects of the fisheries on target stocks. The STT also noted that the boundary change could result in some additional uncertainty about the incidental effects of the fisheries on coho and ESA-listed California Coastal Chinook salmon ESU, but concluded that any effects would likely be small.

The results of the STT's analysis show small changes in total salmon catch due to the limited geographic area involved in the boundary change, as well as the constraints on ocean salmon fisheries based on ACLs, conservation objectives, and measures analyzed and described in existing biological opinions. Thus, the proposed boundary change is expected to result in very small, if any, impacts to salmon abundance, and immeasurable, if any, impacts on prey availability for endangered Southern Resident Killer whales.

NMFS determined that there were no environmental justice impacts from the proposed action. We have added an environmental justice statement in the final EA.

Comment 3: One commenter expressed concern about fishery management and monitoring in the Eel River. The commenter stated that there was not enough research done on the environmental impacts from the boundary move and opined that the documents did not sufficiently address any potential environmental issues that will be caused by the movement of the boundary and/or subsequent overfishing, should it take place.

Response: NMFS appreciates the commenter's interest in the Eel River and its salmon. The Council and NMFS manage fisheries in the ocean, while in-river fisheries are managed by the states, in this case, the state of California. Amendment 20 does not affect fisheries in the Eel River.

With respect to the concern about the fishery impacts from the KMZ boundary change, please see NMFS' response to comment 2, above. Additionally, the MSA and the FMP have specific provisions to identify overfishing and address it should it occur. Amendment 20 does not change these provisions.

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

Dated: April 22, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2021–08815 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 81
Thursday, April 29, 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.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–157; RM–11902; DA 21–438; FR ID 22303]

Television Broadcasting Services Eagle River, Wisconsin

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Gray Television Licensee, LLC (Petitioner), requesting the allotment of channel 26 at Eagle River, Wisconsin, as the community's second local service in the DTV Table of Allotments.

DATES: Comments must be filed on or before June 1, 2021 and reply comments on or before June 14, 2021.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Ari Meltzer, Esq., Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647; or Joyce Bernstein, Media Bureau, at *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: In support of its channel allotment request, the Petitioner states that Eagle River is a community deserving of a new television broadcast service. Eagle River (pop. 1,398/2010 Census) has a Mayor; City Administrator; City Council; police, public works, and utility departments; and numerous businesses and places of worship. In addition, channel 28 (WYOW) is already allotted to Eagle River. The Commission concludes the request to amend the Post-Transition Table of DTV Allotments warrants consideration. The Petitioner's proposal would result in a second local service to Eagle River consistent with the Commission's television allotment policies. Channel 26 can be allotted to Eagle River, consistent with the minimum geographic spacing requirements for new DTV allotments in section 73.623(d) of the Commission's rules, at 45°55′28.9″ N and 89°15′28.5″ W. In addition, the allotment point complies with section 73.625(a)(1) of the rules as the entire community of Eagle River is encompassed by the 48 dBμ contour. Since the proposed facility is located within the Canadian coordination zone, concurrence from the Canadian government must be obtained for this allotment.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 21–157; RM–11902; DA 21–438, adopted April 16, 2021, and released April 16, 2021. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in § 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See §§ 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—Radio Broadcast Service

■ 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.

§ 73.622 [Amended]

■ 2. In § 73.622 in paragraph (i), amend the Post-Transition Table of DTV Allotments under Wisconsin by revising the entry for Eagle River to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) * * *

Community	Channel No.
* * * * *	
Wisconsin	
* * * * *	
Eagle River	26, 28
* * * * *	

[FR Doc. 2021–08898 Filed 4–28–21; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 86, No. 81

Thursday, April 29, 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

Agricultural Research Service

Notice of Intent To Seek Approval To Collect Information

AGENCY: National Agricultural Library, Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, this notice announces the National Agricultural Library's (NAL) intent to request an extension of currently approved information collection form related to the Animal Welfare Information Center's (AWIC) workshop, *Meeting the Information Requirementsof the Animal Welfare Act.* This workshop registration form requests the following information from participants: contact information, current profession and professional experience, affiliation, basic demographic information, and database searching experience. Participants include principal investigators, members of Institutional Animal Care and Use Committees, animal care technicians, facility managers, veterinarians, and administrators of animal use programs.

DATES: Comments on this notice must be received by June 28, 2021 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Jessie Kull, Supervisory Technical Information Specialist, USDA, ARS, NAL Animal Welfare Information Center, 10301 Baltimore Avenue, Beltsville, Maryland 20705–2351. Submit electronic comments to: *jessie.kull@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Jessie Kull, Supervisory Technical Information Specialist. Phone: 301 504 6212 or Fax: 301 504 5181.

SUPPLEMENTARY INFORMATION:

Title: Animal Welfare Act Workshop Registration.

OMB Number: 0518–033

Expiration Date: November 30, 2021.

Type of Request: To extend currently approved data collection form.

Abstract: This Web-based form collects information to register respondents in the workshop, *Meeting the Information Requirements of the Animal Welfare Act.* Information collected includes the following: preference of workshop date, name, title/position, years of professional experience, organization name, highest level of education, age, mailing address, phone number, and email address. Five questions are asked regarding database searching experience, membership on an Institutional Animal Care and Use Committee, position as principal investigator, and goals for attending the workshop.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Principal investigators, members of Institutional Animal Care and Use Committees, animal care personnel, veterinarians, information providers, and administrators of animal use programs.

Estimated number of Respondents: 180 per year.

Estimated Total Annual Burden on Respondents: 15 hours.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Simon Y. Liu,

Acting Administrator, ARS.

[FR Doc. 2021–08937 Filed 4–28–21; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 26, 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 June 1, 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.

Animal Plant and Health Inspection Service

Title: SARS–CoV–2 Testing in Animals Reporting Activities.

OMB Control Number: 0579–0476.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 governs the protection of animal health and it provides the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of agricultural animals and animal products. Under section 8219 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the USDA may also collaborate and coordinate with the Department of Health and Human Services for the surveillance of zoonoses disease. Further, collection and dissemination of animal and poultry health data and information is mandated by 7 U.S.C. 391 and 21 U.S.C. 119. To better meet its reporting requirements about emerging diseases to the OIE, APHIS is interested in collecting information as to the detection of severe acute respiratory syndrome coronavirus 2 (SARS–CoV–2) in animals. To accomplish this, APHIS will distribute a request for information to U.S. laboratories engaged in the testing of animals for SARS–CoV–2, develop a questionnaire in NAHRS, and request that State animal health officials and U.S. laboratories provide SARS–CoV–2 animal testing data on a monthly basis.

Need and Use of the Information: Collection, analysis, and dissemination of animal and poultry health information is consistent with APHIS's mission of protecting and improving American agriculture's productivity and competitiveness. APHIS uses the National Animal Health Reporting System (NAHRS) for reporting and tracking the emergence, prevalence, epidemiology, and economic importance of diseases in livestock, poultry, and other animals. The system facilitates standardization of disease information throughout the United States, provides a central point for the collection of national data, and assists APHIS in meeting its animal disease reporting obligations to the World Organization for Animal Health (OIE).

Description of Respondents: State animal scientists, U.S. laboratory personnel, and veterinarians.

Number of Respondents: 77.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 1,626.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–08981 Filed 4–28–21; 8:45 am]

BILLING CODE 3410–34–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Performance Review Board Membership

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice.

SUMMARY: Notice is given of the appointment of members to a performance review board for the Architectural and Transportation Barriers Compliance Board (Access Board).

FOR FURTHER INFORMATION CONTACT: Gretchen Jacobs, General Counsel, Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004–1111. Telephone (202) 272–0040.

SUPPLEMENTARY INFORMATION: Section 4314 (c) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service (SES) performance review boards. The function of the boards is to review and evaluate the initial appraisal of senior executives' performance and make recommendations to the appointing authority relative to the performance of these executives. Because of its small size, the Access Board has appointed SES career members from other federal agencies to serve on its performance review board. The members of the performance review board for the Access Board are:

- Craig Luigart, Chief Information Officer, Veterans Health Administration, Department of Veterans Affairs;
- Rebecca Bond, Chief, Disability Rights Section, Department of Justice;
- Jennifer Sheehy, Acting Assistant Secretary, Office of Disability Employment Policy, Department of Labor.

Dated: April 23, 2021.

Gretchen Jacobs,

General Counsel.

[FR Doc. 2021–08930 Filed 4–28–21; 8:45 am]

BILLING CODE 8150–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Montana Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Montana Advisory Committee (Committee) will hold a meeting via web conference on Tuesday, May 4, 2021, from 1:00 p.m. to 2:00 p.m. Mountain Time. The purpose of the meeting is to debrief web hearings on Native American voting rights.

DATES: The meeting will be held on Tuesday, May 4, 2021 from 1:00 p.m. to 2:00 p.m. MT.

Webex Information: Register online *https://civilrights.webex.com/meet/afortes.*

Audio: (800) 360–9505.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer (DFO) at *afortes@usccr.gov* or by phone at (202) 681–0857.

SUPPLEMENTARY INFORMATION: Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit Office within 30 days following the meeting. Written comments may be mailed to Ana Victoria Fortes at *afortes@usccr.gov* in the Regional Programs Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Programs Unit Office (202) 681–0587.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/*

FACAPublicViewCommitteeDetails?id=a10t0000001gzlyAAA.

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Debrief Web Hearings
III. Discuss Writing Stage
IV. Public Comment
V. Discuss Next Steps
VI. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the COVID crisis and DFO availability.

Dated: April 23, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–08911 Filed 4–28–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the Rhode Island State Advisory Committee to the Commission will convene a meeting on Thursday, May 27, 2021 at 3:00 p.m. (ET). The purpose of the meeting is to discuss and potentially vote on a statement on Covid-19 and vaccinations for Black, Indigenous, and People of Color in Rhode Island and/or a statement on the Contingent Faculty Role in Higher Education in Rhode Island.

DATES: May 27, 2021, Thursday, from 3:00 p.m.—4:00 p.m. ET:

To join by web conference: https://bit.ly/3dHqovG.

- Password if prompted: USCCR.
- If you wish to remain anonymous, please enter an alias when joining the meeting so your name does not appear in the Webex participant list.

To join by phone only, dial: 1–800–360–9505; Access Code: 199 607 1840.

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg at *mtrachtenberg@usccr.gov* or by phone at (202) 809–9618.

SUPPLEMENTARY INFORMATION: The meeting is available to the public through the web link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing. Individuals may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with conference details found through registering at the web link above. To request additional accommodations, please email *mtrachtenberg@usccr.gov* at least 7 days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Mallory Trachtenberg at *mtrachtenberg@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov*. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

May 27, 2021, Thursday, from 3:00–4:00 p.m. (ET)

I. Welcome and Roll Call
II. Announcements and Updates
III. Approval of Minutes from the Last Meeting
IV. Discussions
  a. Statement on Covid-19 and Black, Indigenous, and People of Color
  b. Statement on the Contingent Faculty Role in Higher Education in Rhode Island
V. Public Comment
VI. Next Steps
VII. Adjournment

Dated: April 23, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–08912 Filed 4–28–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Montana Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Montana Advisory Committee (Committee) will hold a meeting via web conference on Thursday, May 20, 2021, from 1:00 p.m. to 2:00 p.m. Mountain Time. The purpose of the meeting is to review memorandum on Native American voting rights.

DATES: The meeting will be held on Thursday, May 20, 2021 from 1:00 p.m. to 2:00 p.m. MT.

ADDRESSES:

Webex Information: Register online *https://civilrights.webex.com/meet/afortes*.

Audio: (800) 360–9505.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer (DFO) at *afortes@usccr.gov* or by phone at (202) 681–0857.

SUPPLEMENTARY INFORMATION: Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit Office within 30 days following the meeting. Written comments may be mailed to Ana Victoria Fortes at *afortes@usccr.gov* in the Regional Programs Unit Office/Advisory

Committee Management Unit. Persons who desire additional information may contact the Regional Programs Unit Office (202) 681–0587.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlyAAA.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Discuss Memorandum
III. Public Comment
IV. Discuss Next Steps
V. Adjournment

Dated: April 23, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–08913 Filed 4–28–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Washington Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Washington Advisory Committee (Committee) to the Commission will hold a series of meetings via WebEx on Monday, May 17, and Wednesday, May 19, 2021, from 3:00 p.m. to 5:00 p.m. Pacific Time for the purpose of hearing testimony on disparities within use of force and potential barriers to accountability.

DATES: The meetings will be held on:

- *Panel 3:* Monday, May 17, 2021, from 3:00 p.m. to 5:00 p.m. Pacific Time
- *Panel 4:* Wednesday, May 19, 2021, from 3:00 p.m. to 5:00 p.m. Pacific Time

ADDRESSES:

Panel 3—Public Webex Registration Link at: *https://tinyurl.com/3kbebdn7*

Panel 4—Public Webex Registration Link at: *https://tinyurl.com/n2hsmwev*

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer, (DFO) at *bpeery@usccr.gov* or by phone at (202) 701–1376.

SUPPLEMENTARY INFORMATION: Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke Peery, DFO, at *bpeery@usccr.gov.*

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkZAAQ.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome & Opening Remarks
II. Panelist Remarks
III. Committee Q&A
IV. Public Comment
V. Adjournment

Dated: April 26, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–08970 Filed 4–28–21; 8:45 am]

BILLING CODE P

CIVIL RIGHTS COMMISSION

Notice of Public Meeting of the Washington Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Washington Advisory Committee (Committee) will hold a meeting via web teleconference on Monday, May 24, 2021, from 3:00 p.m.–4:30 p.m. Pacific Time for the purpose of discussing testimony received on disparities within use of force and potential barriers to accountability.

DATES: The meeting will be held on:

- Monday, May 24, 2021, from 3:00 p.m.–4:30 p.m. Pacific Time

Public Webex Registration Link: https://tinyurl.com/3v9djeud

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer (DFO), at *bpeery@usccr.gov* or by phone at (202) 701–1376.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the public WebEx registration link listed above. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke Peery at *bpeery@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office/Advisory Committee Management Unit at (202) 701–1376.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkZAAQ.*

Please click on the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email address.

Agenda

I. Welcome & Roll Call
II. Approval of Minutes
III. Discussion
IV. Public Comment
V. Adjournment

Dated: April 26, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–08969 Filed 4–28–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Montana Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Montana Advisory Committee (Committee) will hold a meeting via web conference on Tuesday, June 8, 2021, from 1:00 p.m. to 2:00 p.m. Mountain Time. The purpose of the meeting is to review memorandum on Native American voting rights and vote on final draft.

DATES: The meeting will be held on Tuesday, June 8, 2021 from 1:00 p.m. to 2:00 p.m. MT.

ADDRESSES:

Webex Information: Register online *https://civilrights.webex.com/meet/afortes.*

Audio: (800) 360–9505.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer (DFO) at *afortes@usccr.gov* or by phone at (202) 681–0857.

SUPPLEMENTARY INFORMATION: Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit Office within 30 days following the meeting. Written comments may be mailed to Ana Victoria Fortes at *afortes@usccr.gov* in the Regional Programs Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Programs Unit Office (202) 681–0587.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlyAAA.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Discuss Memorandum
III. Public Comment
IV. Vote on Final Memorandum Draft
V. Adjournment

Dated: April 23, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–08914 Filed 4–28–21; 8:45 am]

BILLING CODE 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

[4/14/2021 through 4/21/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
Orange Research, Inc	140 Cascade Boulevard, Milford, CT 06460.	4/16/2021	The firm manufactures instruments and equipment for measuring and changing the flow, level, and pressure of liquids and gases.
Carbide-USA, LLC	100 Home Street, Elmira, NY 14904.	4/20/2021	The firm manufactures cutting tools for metal working.
Glaze Tool and Engineering, Inc	1610 Summit Street, New Haven, IN 46774.	4/21/2021	The firm manufactures metal stamping dies.

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 315.8 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. 2021–08974 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 94–7A007]

Export Trade Certificate of Review

ACTION: Notice of Application to Amend the Export Trade Certificate of Review for Florida Citrus Exports, L.C. (''FCE''), Application no. 94–7A007.

SUMMARY: The Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, Department of Commerce, has received an application for an amended Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed application and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) (''the Act'') authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing the proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

Written comments should be sent to *ETCA@trade.gov*. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should also be submitted no later than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary, for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 94–7A007.''

A summary of the application follows.

Summary of the Application

Applicant: Florida Citrus Exports, L.C., 7355 SW 9th Street, Vero Beach, Florida, 32968.

Contact: William M. Stainton, Esq., Attorney; Email: *wms@macfar.com*.

Application No.: 94–7A007.

Date Deemed Submitted: April 14, 2021.

FCE seeks to amend its Certificate as follows:

1. Add the following entity as a new Member of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)):

○ Heller Brothers Packing Corp., Winter Garden, Florida

2. Remove the following entities as Members of the Certificate:

○ Hogan and Sons, Inc., Vero Beach, Florida

○ Leroy E. Smith's Sons, Inc., Vero Beach, Florida

○ Seald Sweet LLC, Vero Beach, Florida

FCE's proposed amendment would result in the following list of Members under the Certificate:

Egan Fruit Packing, LLC, Ft. Pierce, Florida

Golden River Fruit Co., Vero Beach, Florida

Heller Brothers Packing Corp., Winter Garden, Florida

Indian River Exchange Packers, Inc., Vero Beach, Florida

The Packers of Indian River, Ltd., Ft. Pierce, Florida

Premier Citrus Marketing, LLC, Vero Beach, Florida

River One International Marketing, Inc., Vero Beach, Florida

Riverfront Packing Co. LLC, Vero Beach, Florida

Dated: April 23, 2021.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2021–08910 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–853]

Certain Crystalline Silicon Photovoltaic Products From Taiwan: Preliminary Results; Preliminary Intent To Rescind and Partial Rescission of Antidumping Duty Administrative Review; and Preliminary Determination of No Shipments; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that 20 companies, including the mandatory respondents, the Inventec Solar Energy Corporation (ISEC) and E–TON Solar Tech. Co., Ltd. (E–TON) single entity (ISEC/E–TON entity), and United Renewable Energy Co., Ltd. (URE), producers and exporters of certain crystalline silicon photovoltaic products (solar products) from Taiwan, sold subject merchandise in the United States at prices below normal value during the period of review (POR) February 1, 2019, through January 31, 2020. Commerce preliminarily intends to rescind the antidumping administrative review with respect to one company, Inventec Energy Corporation (IEC). In addition, Commerce preliminarily determines

that seven exporters had no shipments during the POR. Lastly, Commerce has rescinded the review initiated for five companies. We invite all interested parties to comment on these preliminary results.

DATES: Applicable April 29, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas Martin and Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3936 and (202) 482–2316, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on solar products from Taiwan,[1] in accordance with section 751(a)(1)(B) of Tariff Act of 1930, as amended (the Act). On April 8, 2020, in accordance with 19 CFR 351.221(c)(1)(i), we initiated this administrative review of the *Order* covering thirty-four producers and/or exporters of the subject merchandise.[2] On June 3, 2020, Commerce selected ISEC and URE as the mandatory respondents.[3]

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.[4] Subsequently, on July 21, 2020, Commerce tolled certain deadlines in administrative reviews by an additional 60 days.[5] On February 8, 2021, we postponed the preliminary results of this review by 64 days until April 23, 2021.[6] For a detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[7]

Scope of the Order

The merchandise covered by the *Order* is solar products. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[8]

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Export prices are calculated in accordance with section 772 of the Act and normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Preliminary Intent To Rescind Administrative Review in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review with respect to a particular exporter or producer when Commerce concludes that it had no shipments (*e.g.,* no reviewable entries of subject merchandise) during the POR subject to the antidumping duty order. At the end of an administrative review, the suspended entries are liquidated at the assessment rate computed for the review period.[9] Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate.

On March 5, 2021, ISEC reported that IEC ceased business operations, and was dissolved and liquidated prior to the POR.[10] As such, Commerce has preliminarily concluded that IEC had no shipments during the POR. Thus, Commerce preliminary intends to rescind this administrative review with respect to IEC pursuant to 19 CFR 351.213(d)(3). Consistent with Commerce's practice,[11] Commerce intends to complete the review and issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on the final results of this review.

Rescission of Administrative Review in Part

Section 351.213(d)(1) of Commerce's regulations provides that Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review. Commerce published the *Initiation Notice* on April 8, 2020.[12] On April 29, 2020, SunPower Manufacturing Oregon, LLC (the petitioner) withdrew its request for review of Sino-American Silicon Products Inc. (SAS) and Solartech Energy Corporation (Solartech).[13] On May 20, 2020, Mega Sunergy Co., Ltd. (Mega) withdrew its request for review for itself.[14] Because the review requests for SAS and Mega were timely withdrawn, and because no other party requested a review of SAS and Mega, we are rescinding the reviews with respect to SAS and Mega.

Additionally, Commerce previously determined in a changed circumstances review that URE is the successor-in-interest to Solartech, as well as Gintech Energy Corporation (Gintech), and Neo Solar Power Corporation (Neo Solar).[15] Therefore, because Solartech, Gintech, and Neo Solar are no longer in existence, Commerce is partially rescinding this administrative review with respect to Solartech, Gintech, and Neo Solar, in accordance with 19 CFR 351.213(d)(3). The review will continue with respect to all other entities listed in the *Initiation Notice.*

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[1] *See Certain Crystalline Silicon Photovoltaic Products From Taiwan: Antidumping Duty Order,* 80 FR 8596 (February 18, 2015) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 19730 (April 8, 2020) (*Initiation Notice*).

[3] *See* Memorandum, ''2019–2020 Antidumping Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from Taiwan: Respondent Selection,'' dated June 3, 2020.

[4] *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.

[5] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[6] *See* Memorandum, ''Certain Crystalline Silicon Photovoltaic Products from Taiwan: Extension of Deadline for Preliminary Results of the 2019–2020 Antidumping Duty Administrative Review,'' dated February 8, 2021.

[7] *See* Memorandum, ''Decision Memorandum for the Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: Certain Crystalline Silicon Photovoltaic Products from Taiwan; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[8] *Id.; see also Order.*

[9] *See* 19 CFR 351.212(b)(1).

[10] *See* Memorandum, ''Certain Crystalline Silicon Photovoltaic Products from Taiwan—Inventec's Sections A Supplemental Questionnaire Response,'' dated March 5, 2021.

[11] *See, e.g., Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017–2018,* 84 FR 34863 (July 19, 2019) (*Heavy Walled Pipe from Turkey*), and accompanying Preliminary Decision Memorandum at 4.

[12] *See Initiation Notice.*

[13] *See* Petitioner's Letter, ''Certain Crystalline Silicon Photovoltaic Products From Taiwan—Partial Withdrawal of Request for Administrative Review,'' dated April 29, 2020.

[14] *See* Mega's Letter, ''Certain Crystalline Silicon Photovoltaic Products from Taiwan, Case No. A–583–853 WITHDRAWAL OF REQUEST FOR ADMINISTRATIVE REVIEW,'' dated May 20, 2020.

[15] *See Certain Crystalline Silicon Photovoltaic Products From Taiwan: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 37836 (August 2, 2019).

Preliminary Determination of No Shipments

Seven producers and/or exporters under review properly filed a certification reporting that they made no shipments of subject merchandise during the POR: (1) AU Optronics Corporation; (2) Canadian Solar Inc.; (3) Canadian Solar International, Ltd.; (4) Canadian Solar Manufacturing (Changshu), Inc.; (5) Canadian Solar Manufacturing (Luoyang), Inc.; (6) Canadian Solar Solution Inc.; and (7) Vina Solar Technology Co., Ltd.[16] CBP did not have any information to contradict these claims of no shipments during the POR.[17] Therefore, we preliminarily determine that these companies did not have shipments of subject merchandise during the POR. Consistent with Commerce's practice,[18] Commerce finds that it is not appropriate to rescind the review with respect to these seven companies, but rather to complete the review and issue appropriate instructions to CBP based on the final results of this review.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we have preliminarily calculated weighted-average dumping margins for the combined entity of ISEC and E-TON,[19] and URE, that are not zero, *de minimis,* or determined entirely on the basis of facts available. Accordingly, we have preliminarily assigned to the companies not individually examined in this review a margin of 11.32 percent, which is the weighted-average of the dumping margins calculated using the public ranged sales data of ISEC and E-TON, and URE.

Preliminary Results of the Review

We preliminarily assign the following weighted-average dumping margins to the firms listed below for the period February 1, 2019, through January 31, 2020:

Producers/exporters	Weighted-average dumping margin (percent)
Inventec Solar Energy Corporation and E-TON Solar Tech. Co., Ltd	32.54
United Renewable Energy Co., Ltd	1.27

Review-Specific Average Rate Applicable to the Following Companies:

Producers/exporters	Weighted-average dumping margin (percent)
Baoding Jiasheng Photovoltaic Technology Co. Ltd	11.32
Baoding Tianwei Yingli New Energy Resources Co., Ltd	11.32
Beijing Tianneng Yingli New Energy Resources Co. Ltd	11.32
Boviet Solar Technology Co., Ltd	11.32
EEPV CORP	11.32
Hainan Yingli New Energy Resources Co., Ltd	11.32
Hengshui Yingli New Energy Resources Co., Ltd	11.32
Kyocera Mexicana S.A. de C.V	11.32
Lixian Yingli New Energy Resources Co., Ltd	11.32
Motech Industries, Inc	11.32
Shenzhen Yingli New Energy Resources Co., Ltd	11.32
Sunengine Corporation Ltd	11.32
Sunrise Global Solar Energy	11.32
Tianjin Yingli New Energy Resources Co., Ltd	11.32
TSEC Corporation	11.32
Win Win Precision Technology Co., Ltd	11.32
Yingli Energy (China) Co., Ltd	11.32
Yingli Green Energy International Trading Company Limited	11.32

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[20] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.[21] 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).

Pursuant to 19 CFR 351.212(b)(1), where an examined respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we calculated an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping calculated for the U.S. sales for a given importer to the total entered value of those sales. Where the mandatory respondent did not report entered value, we calculated the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies that were not selected for individual examination, we will instruct CBP to assess antidumping duties at an *ad valorem* rate equal to each company's weighted-average dumping margin determined in the final results of this review.

For entries of subject merchandise during the POR produced by the ISEC/E-TON entity or URE for which these companies did not know that its merchandise was destined for the United States and for all entries attributed to the companies that we find had no shipments during the POR, we will instruct CBP to liquidate such unreviewed entries pursuant to the reseller policy,[22] *i.e.,* the assessment rate for such entries will be equal to the all-others rate established in the investigation (*i.e.,* 19.50 percent),[23] if there is no rate for the intermediate

[16] *See* Preliminary Decision Memorandum at 3.

[17] *Id.* at 7.

[18] *See, e.g., Heavy Walled Pipe from Turkey* Preliminary Decision Memorandum at 4.

[19] As discussed in the Preliminary Decision Memorandum, Commerce has preliminarily determined to collapse Inventec Solar Energy Corporation and E-TON Solar Tech. Co., Ltd., and treat these companies as a single entity, in accordance with 19 CFR 351.401(f).

[20] *See* 19 CFR 351.212(b).

[21] *See* section 751(a)(2)(C) of the Act.

[22] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[23] *See Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Determination of Sales at Less Than Fair Value,* 79 FR 76966, 796969 (December 23, 2014) (*Final Determination*).

company(ies) involved in the transaction.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be equal to each company's weighted-average dumping margin established in the final results of this review, (except if the *ad valorem* rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero); (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the underlying investigation, but the producer is, then the cash deposit rate will be the rate established for the completed segment for the most recent POR for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.50 percent, the all-others rate established in the underlying investigation.[24]

These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[25] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the time limit for filing case briefs.[26] 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.[27] Executive summaries should be limited to five pages total, including footnotes. Case and rebuttal briefs should be filed using ACCESS and must be served on interested parties.[28] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[29]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. 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 issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.[30] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

An electronically-filed request for a hearing must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[31] Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in all written briefs, not later than 120 days after the publication of these preliminary results in the **Federal Register** pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1), unless otherwise extended.[32]

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4) and 351.221(b)(4).

Dated: April 23, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Affiliation and Collapsing
V. Preliminary Intent to Partially Rescind Administrative Review
VI. Partial Rescission of Administrative Review
VII. Preliminary Determination of No Shipments
VIII. Companies Not Selected for Individual Examination
IX. Discussion of the Methodology
X. Currency Conversion
XI. Recommendation

[FR Doc. 2021–08921 Filed 4–28–21; 8:45 am]

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[24] *See Final Determination.*

[25] *See* 19 CFR 351.309(c)(1)(ii); *see also* 19 CFR 351.303 (for general filing requirements).

[26] *See* 19 CFR 351.309(d)(1).

[27] *See* 19 CFR 351.309(c)(2) and (d)(2).

[28] *See* 19 CFR 351.303.

[29] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[30] *See* 19 CFR 351.310(c).

[31] *See* 19 CFR 351.310(c); *see also* 19 CFR 351.303(b)(1).

[32] *See* section 751(a)(3)(A) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–823]

Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Rescission of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, United States Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on coated paper suitable for high-quality print graphics using sheet-fed presses (coated paper) from Indonesia for the period of review (POR) November 1, 2019, through October 31, 2020, based on the timely withdrawal of the request for review.

DATES: Applicable April 29, 2021.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2972.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2020, Commerce published a notice of opportunity to request an administrative review of the AD duty order on coated paper from

Indonesia for the POR.[1] On November 30, 2020, Verso Corporation (Verso) timely requested an administrative review of the AD order with respect to three companies: PT. Pindo Deli Pulp and Paper Mills, PT. Pabrik Kertas Tjiwi Kimia Tbk, and PT Indah Kiat Pulp & Paper Tbk.[2] On January 6, 2021, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the AD order for the POR with respect to these three companies.[3] On March 26, 2021, Verso timely withdrew its request for review for all three companies.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw their requests within 90 days of the publication date of the notice of initiation of the requested review. Verso withdrew its request for review for all three companies within 90 days of the publication of the *Initiation Notice,* and no other party requested an administrative review of the AD order for the POR. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding the administrative review of the AD order on coated paper from Indonesia for the POR in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of coated paper from Indonesia during the POR at rates equal to the cash deposit rates for estimated antidumping duties that were required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 69586 (November 3, 2020).

[2] *See* Verso's Letter, ''Administrative Review of the Antidumping Duty Order on Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia (11/01/19–10/31/20),'' dated November 30, 2020.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 511 (January 6, 2021).

[4] *See* Verso's Letter, ''Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Withdrawal of Request for Administrative Review,'' dated March 26, 2021.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled 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 terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 23, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–08920 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–DS–P

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, May 24, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time. The primary purpose of this meeting is for the Committee to develop their draft 2021 biennial report on the effectiveness of the National Earthquake Hazards Reduction Program (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, May 24, 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, May 24, 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 develop their draft 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 ten 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, May 17, 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, May 17, 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. 2021–08923 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–13–P

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 Tuesday, August 10, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time. The primary purpose of this meeting is for the Committee to finalize their 2021 biennial report on the effectiveness of the National Earthquake Hazards Reduction Program (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 Tuesday, August 10, 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 Tuesday, August 10, 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 finalize 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 ten 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, Tuesday, August 3, 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, Tuesday, August 3, 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. 2021–08919 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB049]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Management Team (HMSMT) will hold an online meeting, which is open to the public.

DATES: The online meeting will be held on Thursday, May 13, 2021, beginning at 9 a.m. Pacific Daylight Time and continuing until business is completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the HMSMT to discuss and prepare reports for HMS items on the Council's June 2021 meeting agenda. There are two items on the Council meeting agenda that will be the focus of the HMSMT meeting, summarized below. The HMSMT also may discuss other items on the June Council agenda and conduct general workload planning.

First, the HMSMT needs to prepare an analysis of drift gillnet (DGN) fishery performance metrics. These performance metrics track bycatch of specified protected species and finfish species of concern and are reported to

the Council each June based on available bycatch data. In June 2019, the Council endorsed a new analytical method proposed by the HMSMT. Because performance metrics were not reported in 2020, this would be the first year this new analytical method will be used.

Second, the HMSMT will discuss recommendations to address scoping and the development of a range of alternatives for DGN fishery hard caps. The Council took final action in September 2015 to implement ''hard cap'' for selected protected species taken in the DGN fishery as a bycatch mitigation measure. Implementing regulations became effective in February 2020 but were subsequently vacated by court order. The Council wishes to consider alternative bycatch mitigation methods, consistent with its original intent, and considering the reasons the previous implementing regulations were vacated by the Court.

A meeting agenda will be available on the Council website at least one week before the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

Dated: April 26, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–08995 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB045]

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.

SUMMARY: The North Pacific Fishery Management Council (Council) Crab Plan Team will meet May 17, 2021 through May 20, 2021.

DATES: The meeting will be held on Monday, May 17, 2021 through Wednesday, May 19, 2021, from 8 a.m. to 4 p.m., and from 8 a.m. to 10 a.m. on Thursday, May 20, 2021, Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2045.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Jim Armstrong, Council staff; phone: (907) 271–2809; email: *james.armstrong@noaa.gov.* For technical support please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, May 17, 2021 through Thursday, May 20, 2021

The Crab Plan Team will review the final 2021 stock assessments for Aleutian Islands golden king crab and Pribilof Islands blue king crab. Additionally, the Crab Plan Team will discuss model scenarios for the September 2021 stock assessments for snow crab, Tanner crab, Bristol Bay red king crab, summer survey planning, VAST model, length-weight analyses, catch standardization, the Bering Sea fisheries research fund survey and snow crab workshop, Norton Sound red king crab growth, research priorities, the GMACS modeling framework, a crab stock assessment risk table, the EFH 5 year review, terms of reference for crab SAFE chapters, and plans for the Crab Plan Team's September 2021 meeting. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2045* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2045.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2045.*

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

Dated: April 26, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–08994 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB052]

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.

SUMMARY: The North Pacific Fishery Management Council (Council) Fishery Monitoring Advisory Committee (FMAC) will meet from May 17, 2021, through May 18, 2021.

DATES: The meeting will be held on Monday, May 17, 2021, through Tuesday, May 18, 2021, from 8:30 a.m. to 4 p.m., Alaska Daylight Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2064.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Kate Haapala, Council staff; email: *kate.haapala@noaa.gov.* For technical support please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, May 17, 2021, Through Tuesday, May 18, 2021

The May 2021 FMAC agenda will include (a) review of the 2020 observer annual report; (b) make recommendations for the 2022 Annual Deployment Plan; (c) discuss other

analytical results and monitor committee meeting structure, and (d) other business.

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2064* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2064.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2064.*

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

Dated: April 26, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–08996 Filed 4–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2021–HQ–0003]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The Department of Defense (DoD) cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Angela Duncan at the Department of Defense, Washington Headquarters Services, ATTN: Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Suite 03F09–09, Alexandria, VA 22350–3100 or call 571–372–7574.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Aircraft and Personnel Automated Clearance System (APACS); OMB Control Number 0701–0160.

Needs and Uses: The information collection requirement is necessary to obtain PII information which is used by in-country U.S. Embassy approvers to grant country travel clearances, Geographical Combatant Commands approvers to grant theater travel clearances and by the Office of Secretary of Defense for Policy approvers to grant special area travel clearances. Aircrew PII information is used for verification, identification and authentication of travelers for aircraft and personnel travel clearances, as required by DoDD 4500.54E, DoD Foreign Clearance Program.

Affected Public: Individuals or households.

Annual Burden Hours: 246,000.

Number of Respondents: 492,000.

Responses per Respondent: 1.

Annual Responses: 492,000.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Dated: April 26, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–09000 Filed 4–28–21; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2021–HQ–0006]

Proposed Collection; Comment Request

AGENCY: Program Executive Office, Enterprise Information Systems (PEO–EIS), Department of the Army, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Army Program Executive Office, Enterprise Information Systems (PEO–EIS) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* The Department of Defense (DoD) cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Program Executive Office, Enterprise Information Systems (PEO–EIS), ATTN: Dan Rosado, Cyber Officer, Army Data and Analytics Platforms (ARDAP), 9351 Hall Road, Bldg 1456, Fort Belvoir, VA 22060 or call (703) 545–6678.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Global Combat Support System—Army Self Registration, OMB Control Number 0702–XXXX.

Needs and Uses: The information collection requirement is necessary to allow Active Duty Military, Government Civilians, Defense Contractors, Foreign and local National Defense Employees to access GCSS-Army to execute tactical logistics transaction throughout the Department of the Army.

Affected Public: Individuals and households.

Annual Burden Hours: 635.5.

Number of Respondents: 3813.

Responses per Respondent: 1.

Annual Responses: 3813.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

Users of the Enterprise Information Systems, Global Combat Support System-Army (GCSS-Army) are Active Duty Military, Government Civilians, Defense Contractors, Foreign and Local National Defense Employees who need to utilize it to perform logistics operations. These users utilize the Graphic User Interface (GUI) to input their personal data. The system then generates a user record in the system for each user, which allows the users to log into the system to perform their daily duties. There are no paper forms associated with this activity. It is essential to the Army's logistics mission for Active Duty Military, Government Civilians, Defense Contractors, Foreign and Local National Defense employees logging into the system to execute logistics transactions.

Dated: April 26, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–08987 Filed 4–28–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2021–OS–0031]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The Department of Defense (DoD) cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense for Personnel and Readiness (Manpower and Reserve Affairs), 1400 Defense Pentagon, Washington, DC 20301, Jameille D. Williams, 703–571–0117.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Appointment of Chaplains for the Military Services; DD Form 2088; OMB Control Number 0704–0190.

NEEDS AND USES: This information collection is needed to ensure that religious faith groups are appropriately organized and authorized by their constituencies to endorse clergy for service as chaplains in the Military Services. It also certifies the number of years of professional experience for each candidate.

DD Form 2088, ''Statement of Ecclesiastical Endorsement,'' is used to endorse that a Religious Ministry Professional is professionally qualified to become a chaplain. It requests information about name, address, professional experience, and previous military experience to be used in determining grade, date of rank, and eligibility for promotion for appointees to the chaplaincies of the armed forces.

Affected Public: Individuals or households.

Annual Burden Hours: 1,125 hours.

Number of Respondents: 150.

Responses per Respondent: 10.

Annual Responses: 1500.

Average Burden per Response: 45 minutes.

Frequency: On occasion.

Dated: April 26, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–08985 Filed 4–28–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2021–OS–0033]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the

Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The Department of Defense (DoD) cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Angela Duncan at the Department of Defense, Washington Headquarters Services, ATTN: Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Suite 03F09–09, Alexandria, VA 22350–3100 or call 571–372–7574.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Biometric Identification System (DBIDS) Registration Application; OMB Control Number 0704–0455.

Needs and Uses: The information collection requirement is necessary to obtain and record the biographic & biometric data connected with positively identifying identity, eligibility for access, and fitness within DBIDS and shared with IMESA/IOLS. The form data is used in the determination of access at DBIDS sites and affiliated systems through use of IMESA/IolS.

Affected Public: Individuals or households.

Annual Burden Hours: 291,667 hours.

Number of Respondents: 2,500,000.

Responses per Respondent: 1.

Annual Responses: 2,500,000.

Average Burden per Response: 7 minutes.

Frequency: On occasion.

Dated: April 26, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–08999 Filed 4–28–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Corps of Engineers

[Docket ID: USA–2021–HQ–0007]

Proposed Collection; Comment Request

AGENCY: U.S. Army Corps of Engineers, Department of the Army, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Army Corps of Engineers announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The Department of Defense (DoD) cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army Corps of Engineers, Charleston District, 69 Hagood Ave, Charleston, SC 29412, ATTN: George Ebai, or call 843–329–8068.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Puerto Rico Beach Recreation Value and Benefits Surveys; OMB Control Number 0710–XXXX.

Needs and Uses: The purpose of this study is to employ necessary methods of welfare economics for analyzing the net economic value of beach re-nourishment. U.S. Army Corps of Engineers (USACE) Principle and Guidelines stipulates that when beach visitation exceeds the 750,000 annual visitation threshold, contingent valuation (CV) or travel cost method (TCM) are the required metrics for measuring benefits accruing from recreation. This study will produce empirical estimates of economic value of beach replenishment, focusing on recreation value, how recreation value varies with programmatic attributes, and economic impacts stemming from changes in recreation and recreation value. This study will employ utility-theoretic micro-econometric models, with revealed and stated preference data, and will focus on San Juan, Puerto Rico. This project is being undertaken under the authority for the Puerto Rico Coastal Study and the San Juan Metro Area, Puerto Rico Study is Section 204 of the River and Harbor Act of 1970, Public Law 91–611, which authorizes the Secretary of the Army, acting though the Chief of Engineers, to prepare plans for the development, utilization and conservation of water and related land resources of drainage basins and coastal areas in the Commonwealth of Puerto Rico. The initial project scope also included data collection in Dade County FL, Pinellas County FL, Collier County FL, and Folly Beach SC. The COVID–19

pandemic prohibited the USACE from collecting the necessary information onsite. An alternative data source was found for those counties, but these data do not provide information on Puerto Rico beaches. Thus, the project scope has been modified to assess beach visitation and erosion management preferences for both Puerto Rico residents and U.S. visitors to Puerto Rico.

Affected Public: Individuals and Households.

Annual Burden Hours: 512.5

Number of Respondents: 2050

Responses per Respondent: 1

Annual Responses: 2050

Average Burden per Response: 15 minutes

Frequency: On occasion.

Eligible respondents for this survey are individuals 18 years of age or older that reside in Puerto Rico or have taken a trip to the Caribbean since 2016. Puerto Rico residents comprise the target population for the domestic survey. The majority of international tourist visits to Puerto Rico (in excess of 90%) originate in the United States, so our tourism sample focuses on US households that have taken a trip to the Caribbean since 2016. We are utilizing on online panel of respondents that is managed using scientific sampling properties to provide a rotating panel of respondents that closely resemble the population of interest. If approved, the survey will be administered online to a total of 2,050 beach recreationists, consisting of 1,050 responses from citizens of Puerto Rico and 1,000 from US tourists that travel to Puerto Rico via air or cruise.

Dated: April 26, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–08986 Filed 4–28–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2021–HQ–0003]

Submission for OMB Review; Comment Request

AGENCY: United States Marine Corps, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to collect information on active duty and reserve Marines to inform COVID–19 vaccine distribution and education efforts. DoD requests emergency processing and OMB authorization to collect the information after publication of this Notice for a period of six months.

DATES: Comments must be received by May 14, 2021.

ADDRESSES: The Department has requested emergency processing from OMB for this information collection request by 15 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 15-day Review—Open for Public Comments'' or by using the search function.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION: The results of the USMC COVID–19 Vaccine Survey will provide leadership with an understanding of Marines' propensity to take the COVID–19 vaccine and other related factors. COVID–19 vaccine distribution has begun in the Marine Corps as per the DoD vaccination schedule. Because the vaccine has been authorized under a EUA vice full approval, the vaccine is being offered voluntarily. This survey is being conducted in order to better understand why active duty and reserve Marines choose to get the vaccine or not as well as identify any generalized misunderstandings or misinformation Marines may have about the vaccines. The data will enable the Marine Corps' Communication Directorate, COVID–19 Cell, and Health Services to address inaccurate information so Marines can make an informed choices about the vaccine. This exemption will allow the survey to be fielded as soon as possible so the results can inform strategic messaging efforts by late spring 2021.

TITLE; ASSOCIATED FORM; AND OMB NUMBER: COVID–19 Vaccine Survey; 0703–CNVS.

Type of Request: New.

Number of Respondents: 9,000.

Responses per Respondent: 1.

Annual Responses: 9,000.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 750.

Affected Public: Individuals and households.

Frequency: Once.

Respondent's Obligation: Voluntary.

Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of DOD, including whether the information collected has practical utility; (2) the accuracy of DOD's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: April 26, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–08983 Filed 4–28–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2021–FSA–0011]

Privacy Act of 1974; Matching Program

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of a new matching program.

SUMMARY: This matching program will assist the Department of Education (ED) in its obligation to ensure that borrowers of a loan made under title IV of the Higher Education Act of 1965, as amended (HEA) for the Federal Perkins Loan Program (20 U.S.C. 1087aa *et seq.*), the William D. Ford Federal Direct Loan Program (20 U.S.C. 1087a *et seq.*), the Federal Family Education Loan (FFEL) Program (20 U.S.C. 1071 *et seq.*), or the Federal Insured Student Loan (FISL) Program (20 U.S.C. 1071 *et seq.*) (referred to collectively herein as ''title IV loans'') or with Teacher Education Assistance for College and Higher Education (TEACH) Grant service obligations more efficiently and effectively apply for Total and Permanent Disability (TPD) discharges of their title IV loans or TEACH Grant service obligations.

DATES: Submit your comments on the proposed re-establishment of the

matching program on or before June 1, 2021.

The matching program will go into effect 30 days after the publication of this notice, on April 29, 2021, unless comments have been received from interested members of the public requiring modification and republication of the notice. The matching program will continue for 18 months after the effective date and may be renewed for up to an additional 12 months if, within 3 months prior to the expiration of the 18 months, the respective Data Integrity Boards of ED and the Department of Veterans Affairs (VA) determine that the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the matching program, address them to Brenda Vigna, Division Chief, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Ron Bennett, Director, Program Technical & Business Support Group, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: We provide this notice in accordance with Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular No. A–108.

Participating Agencies: The U.S. Department of Education and the U.S. Department of Veterans Affairs.

Authority for Conducting the Matching Program: ED's legal authority to enter into the matching program and to disclose information thereunder is sections 420N(c), 437(a)(1), 455(a)(1), and 464(c)(1)(F)(ii & iii) of the HEA (20 U.S.C. 1070g–2(c), 1087(a)(1), 1087e(a)(1), and 1087dd(c)(1)(F)(ii & iii)); the regulations promulgated pursuant to those HEA sections (34 CFR 674.61(b), 682.402(c), 685.213, and 686.42(b)); and subsections (a)(8) and (b)(1) of the Privacy Act (5 U.S.C. 552a(a)(8) and (b)(1)). VA's legal authority to enter into this matching program and to disclose information thereunder is subsections (a)(8) and (b)(3) of the Privacy Act (5 U.S.C 552a(a)(8) and (b)(3)).

Purpose(s): This matching program will assist ED in its obligation to ensure that borrowers of title IV loans or TEACH Grant service obligations more efficiently and effectively apply for TPD discharge of their title IV loans or TEACH Grant service obligations. ED will proactively send notices to borrowers who VA has designated as (1) having a service-connected disability rating that is 100 percent disabling, or (2) being totally disabled based on an individual unemployability rating, informing them that ED will discharge the borrower's title IV loans or TEACH Grant service obligations no earlier than 61 days from the date that ED sends the notification to the borrower, unless the borrower chooses to have their title IV loans or TEACH Grant service obligations discharged earlier or chooses to opt out of the TPD discharge within 60 days from the date that ED sends the notification to the borrower. ED's notices also will inform these borrowers that ED has accepted information obtained from the VA in lieu of the borrower's submission of a VA Statement with the borrower's TPD loan discharge application, thereby simplifying the TPD discharge process for borrowers.

Categories of Individuals: The individuals whose records are used in the matching program are described as follows:

VA will disclose to ED records on Veterans who are in receipt of VA disability compensation benefits with a VA determination that they have a 100 percent disabling service-connected disability rating or that they are totally disabled based on an individual unemployability rating, along with the VA disability determination date for each such individual. ED will then match the file received from VA with ED's records on borrowers of title IV loans, as contained in ED's system of records entitled ''National Student Loan Data System (NSLDS)'' (18–11–06) who owe a balance on a title IV Loan, have had any loans under title IV of the HEA written off due to default, or are responsible for completing a service obligation in exchange for having received a TEACH Grant under the TEACH Grant Program.

Categories of Records: The records used in the matching program are described as follows:

VA will disclose to ED, on a quarterly basis, the name (first, middle, and last), date of birth (DOB), and Social Security number (SSN) of all individuals who are in receipt of VA disability compensation benefits with a VA determination that they have a 100 percent disabling service-connected disability rating or that they are totally disabled based on an individual unemployability rating, along with the VA disability determination date for each such individual. ED will match the VA records to the ED system of records entitled ''National Student Loan Data System (NSLDS)'' (18–11–06).

System(s) of Records: VA will use the VA system of records entitled ''Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA'' (58VA21/22/28), last published in the **Federal Register** in full on February 14, 2019 (84 FR 4138). VA has determined that routine use 39 in the foregoing system of records is compatible with the purpose for which the information is collected and contains appropriate Privacy Act disclosure authority.

ED will match information obtained from VA with ED records maintained in ED's system of records entitled ''National Student Loan Data System (NSLDS)'' (18–11–06). The NSLDS system of records notice was last published in the **Federal Register** in full on September 9, 2019 (84 FR 47265).

ED will also maintain matched information obtained from VA in the system of records identified as ''Common Services for Borrowers (CSB) (18–11–16),'' as last published in the **Federal Register** in full on September 2, 2016 (81 FR 60683).

Accessible Format: On request to Lisa Tessitore, Program Operations Specialist, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320,

telephone: (202) 377–3249. Individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark A. Brown,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 2021–08991 Filed 4–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Gaining Early Awareness and Readiness for Undergraduate Programs (State Grants)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) State Grants, Assistance Listing Number 84.334S. This notice relates to the approved information collection under OMB control number 1840–0821, Application for GEAR UP State Grants.

DATES:

Applications Available: April 29, 2021.

Deadline for Transmittal of Applications: June 28, 2021.

Deadline for Intergovernmental Review: August 27, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Ben Witthoefft, U.S. Department of Education, 400 Maryland Avenue SW, Room 2C215, Washington, DC 20202–6450. Telephone: (202) 453–7576. Email: *Ben.Witthoefft@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The GEAR UP program is a discretionary grant program that encourages eligible entities to provide support, and maintain a commitment to, eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education. Under the GEAR UP program, the Department awards grants to two types of entities: (1) States and (2) eligible partnerships.

Background: In this notice, the Department invites applications for State grants only. We will invite applications for Partnership grants in another notice published in the **Federal Register**. Required services under the GEAR UP program are specified in section 404D(a) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070a–24(a)), and permissible services under the GEAR UP program are specified in section 404D(b) and (c) of the HEA (20 U.S.C. 1070a–24(b) and (c)). Grantee activities must include providing financial aid information for postsecondary education; encouraging enrollment in rigorous and challenging coursework in order to reduce the need for remediation at the postsecondary level; implementing activities to improve the number of participating students who obtain a secondary school diploma and who complete applications for and enroll in a program of postsecondary education; and providing scholarships as specified in section 404E of the HEA. Additional permissible activities for State grantees are specified in sections 404D(b) and (c) of the HEA.

Recent data suggest that the COVID–19 pandemic has created academic challenges and greatly exacerbated mental health issues among school-aged youth. For example, the Centers for Disease Control (CDC) reports the proportion of emergency room visits related to mental health crises has increased dramatically for young children and adolescents since the start of the pandemic.[1] Researchers also estimate that COVID–19-related disruptions may put students substantially behind, particularly in topics like mathematics, causing many to reenter school with more variability in their academic skills compared to normal circumstances.[2]

In addition, the transition to remote learning has introduced academic challenges for all students, particularly students from low-income backgrounds, students of color, English learners, and students with disabilities. Students living in rural communities face additional challenges to accessing instruction. Across the Nation, there are gaps in access to broadband in rural locations and on Tribal lands. In addition to less access to academic instruction, COVID–19 has impacted the well-being of rural students[3] and their likelihood of enrolling in postsecondary education.[4]

Priorities: This notice contains two competitive preference priorities and three invitational priorities. In accordance with 34 CFR 75.105(b)(2)(ii) and (iv), Competitive Preference Priority 1 is from section 404A(b)(3) of the HEA (20 U.S.C. 1070a–21(b)(3)) and the GEAR UP program regulations (34 CFR 694.19). Competitive Preference Priority 2 is from 34 CFR 75.226(d).

Competitive Preference Priorities: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application, depending on how well the application meets the priorities.

These priorities are:

Competitive Preference Priority 1—Successful State GEAR UP grant prior to August 14, 2008 (Up to 2 points).

[1] *www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm.*

[2] *www.brookings.edu/blog/brown-center-chalkboard/2020/05/27/the-impact-of-covid-19-on-student-achievement-and-what-it-may-mean-for-educators/.*

[3] *www.pnas.org/content/118/1/2019378118, www.gse.harvard.edu/news/20/10/harvard-edcast-covid-19s-impact-rural-schools.*

[4] *https://thecollegepost.com/covid-rural-student-enrollment/.*

We give priority to an eligible applicant for a State GEAR UP grant that has: (a) Carried out a successful State GEAR UP grant prior to August 14, 2008, determined on the basis of data (including outcome data) submitted by the applicant as part of its annual and final performance reports and the applicant's history of compliance with applicable statutory and regulatory requirements; and (b) a prior demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies.

Competitive Preference Priority 2—Moderate Evidence (Up to 3 points).

Applications supported by evidence that meets the conditions in the definition of ''moderate evidence'' (as defined in this notice).

Note: To address the priority, an applicant may submit up to two study citations that it believes support the implementation of a GEAR UP authorized activity proposed in the application and that meet the moderate evidence standard. For State grantees, required GEAR UP services are specified in section 404D(a) of the HEA (20 U.S.C. 1070a–24(a)), and permissible services are specified in section 404D(b) and (c) of the HEA (20 U.S.C. 1070a–24(b) and (c)).

Applicants can cite What Works Clearinghouse (WWC) intervention reports, WWC practice guides, or individual studies—both those already listed in the Department's WWC Database of Individual Studies [5] and those that have not yet been reviewed by the WWC. Studies listed in the WWC Database of Individual Studies do not necessarily satisfy the criteria needed to meet the moderate evidence standard. Therefore, applicants should themselves ascertain the suitability of the study for the evidence priority.

The proposed studies must be cited in the section of the application that addresses Competitive Preference Priority 2 as well as on the Evidence Form. Applicants should also describe (1) the project component(s) from the cited research they intend to implement in their GEAR UP project, (2) the relevant outcome(s) that are included in both the study (or WWC practice guide or intervention report) and in the proposed project, (3) the research findings suggesting a favorable relationship between the project component and the relevant outcome, and (4) how the population and/or settings in the cited research overlap with that of the proposed project. The Department will review the research cited by the applicant to determine if it meets the requirements for moderate evidence, as well as whether it is sufficiently aligned with the project proposed.

Invitational Priorities: For FY 2021, and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Building Capacity for Remote Learning.

Projects that are designed to address one or both of the following priority areas:

(a) Providing personalized and job-embedded professional learning to build the capacity of GEAR UP educators who serve GEAR UP participants to create remote learning experiences for GEAR UP participants that advance student engagement and learning through effective use of technology (*e.g.,* both live and video conferencing professional learning opportunities, professional learning networks or communities, and coaching).

(b) Providing access to software applications to GEAR UP participants without access to such software applications to meet all GEAR UP students' and GEAR UP educators' remote learning needs, regardless of whether students and educators are inside the school building or in remote learning environments.

Note: The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable. The remote learning environment must also provide appropriate remote learning language assistance services to English learners.

For the purposes of this priority, ''remote learning'' means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner's education needs. Remote learning may include online, hybrid/blended learning, or non-technology-based learning (*e.g.,* lab kits, project supplies, paper packets).

Invitational Priority 2— Addressing the Impact of COVID–19 on Students' Mental Health and Academic Outcomes.

Projects designed to provide integrated student support services (also known as wrap-around services) for GEAR UP participants to address mental health and academic support needs due to the COVID–19 pandemic. An applicant should describe in its application how it will collaborate with any partners to provide resources to support students and communities hit the hardest by COVID–19 and implement evidence-based best practices to address the existing inequities exacerbated by the pandemic. The proposed system of integrated student support services should include services that meet the whole needs of students from low-income backgrounds, including aid for school supplies, transportation costs as allowable by program regulations, connections to mental health services, mentoring, tutoring, and peer support groups, that help ensure graduation from high school and enrollment in postsecondary education.

Invitational Priority 3—Providing GEAR UP Services to Schools Located in Rural Areas.

Applications that include descriptive plans to provide GEAR UP services and resources in rural communities and schools, including those local educational agencies (LEAs) with a locale code of 32, 33, 41, 42, or 43.

Definitions: These definitions are from 34 CFR 77.1(c).

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or

[5] *http://ies.ed.gov/ncee/wwc/ReviewedStudies#/OnlyStudiesWithPositiveEffects:false.SetNumber:1.*

developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D).

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, as described in the WWC Handbooks.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of a program.

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Program Authority: 20 U.S.C. 1070a–21–1070a–28.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 694.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $35,617,582.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $2,500,000–$5,000,000.

Estimated Average Size of Awards: $3,535,000.

Maximum Award: We will not make an award for a State grant exceeding $5,000,000 for a single budget period of 12 months. Additionally, no funding will be awarded for increases in years two through seven.

Estimated Number of Awards: 11.

Note: The Department is not bound by any estimates in this notice.

Project Period: Either 72 months or 84 months.

Note: An applicant that wishes to seek funding for a seventh project year (*i.e.,* for a project period greater than 72 months) in order to provide project services to GEAR UP students through their first year of attendance at an institution of higher education (IHE) must propose to do so in its application.

III. Eligibility Information

1. *Eligible Applicants:* States (as defined in section 103(20) of the HEA (20 U.S.C. 1003(20)), which includes the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States. Per congressional direction in House Report 116–450 and reinforced in the Explanatory Statement to the Department of Education Appropriations Act, 2021 (Pub. L. 116–260), only States without an active State GEAR UP grant, or States that have an active State GEAR UP grant that is scheduled to end prior to October 1, 2021, are eligible to receive a new State GEAR UP award in this competition. States with grants remaining open beyond October 1, 2021, for a no-cost extension period or for the sole purpose of data collection and analysis activities, are not considered active for purposes of implementing this directive.

2. a. *Cost Sharing or Matching:* Section 404C(b)(1) of the HEA requires grantees under this program to provide from State, local, institutional, or private funds, not less than 50 percent of the cost of the program (or one dollar of non-Federal funds for every one dollar of Federal funds awarded), which may be provided in cash or in-kind. The

provision also specifies that the match may be accrued over the full duration of the grant award period, except that the grantee must make substantial progress towards meeting the matching requirement in each year of the grant award period.

Section 404C(c) of the HEA provides that in-kind contributions may include (1) the amount of the financial assistance obligated under GEAR UP to students from State, local, institutional, or private funds, (2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under GEAR UP, (3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of non-school organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations, and (4) equipment and supplies, cash contributions from non-Federal sources, transportation expenses, in-kind or discounted program services, indirect costs, and facility usage.

Grantees must include a budget detailing the source of the matching funds and must provide an outline of the types of matching contributions for at least the first year of the grant in their grant applications. Consistent with 2 CFR 200.306(b), any matching funds must be an allowable use of funds consistent with the GEAR UP program requirements and the cost principles detailed in subpart E of 2 CFR part 200, and not included as a contribution for any other Federal award.

b. *Supplement-Not-Supplant:* This program involves supplement, not supplant funding requirements. Under section 404B(e) of the HEA (20 U.S.C. 1070a–22(e)), grant funds awarded under this program must be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this program.

c. *Indirect Cost Rate Information:* For entities eligible to apply to this competition, the program regulations at 34 CFR 694.11 limit indirect cost reimbursement to the rate determined in the entity's negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. Other: *General Application Requirements:* All applicants must meet the following application requirements in order to be considered for funding. The application requirements are from sections 404C(a) and 404E of the HEA (20 U.S.C. 1070a–23(a); 20 U.S.C. 1070a–25).

In order for an eligible entity to qualify for a grant under the GEAR UP program, the eligible entity must submit to the Secretary an application for carrying out a GEAR UP program that—

(a) Describes the activities for which assistance under this program is sought, including how the eligible entity will carry out the required activities described in section 404D(a) of the HEA;

(b) Describes, in the case of an eligible entity described in section 404A(c)(1) of the HEA, how the eligible entity will meet the requirements of section 404E of the HEA;

(c) Provides assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 404D of the HEA;

(d) Provides assurances that activities assisted under this program will not displace an employee or eliminate a position at a school assisted under this program, including a partial displacement such as a reduction in hours, wages, or employment benefits;

(e) Describes, in the case of an eligible entity described in section 404A(c)(1) of the HEA that chooses to use a cohort approach, how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 404B(d) of the HEA, and how the eligible entity will serve the cohorts through grade 12, including—

(i) How vacancies in the program under this program will be filled; and

(ii) How the eligible entity will serve students attending different secondary schools;

(f) Describes how the eligible entity will coordinate programs under this program with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

(g) Provides such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this program;

(h) Provides information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit;

(i) Describes the sources of matching funds that will enable the eligible entity to meet the matching requirement described in section 404C(b); and

(j) Demonstrates, in the case of an eligible entity that is requesting to use more than 50 percent of grant funds on GEAR UP early intervention activities and less than 50 percent of grant funds on scholarships, that the eligible entity has another means of providing the students with GEAR UP scholarships. Such means must ensure that (1) any student that qualifies as a student eligible for a GEAR UP scholarship under 20 U.S.C. 1070a–25(g) will receive a scholarship that meets the minimum Pell Grant requirements under 20 U.S.C. 1070a–25(d), and (2) the eligible entity will not impose additional eligibility criteria that would have the effect of limiting or denying a scholarship to an eligible student as required by 34 CFR 694.14(c)(3).

4. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR–2019–02–13/pdf/2019–02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We specify unallowable costs in subpart E of 2 CFR part 200. We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

Under HEA section 404E(b)(1), a State must use not less than 25 percent and not more than 50 percent of the grant funds for GEAR UP project activities described in HEA section 404D,[6] with the remainder of grant funds spent on

[6] Excluding the provision of funds for postsecondary scholarships required by HEA section 404D(a)(4).

scholarships to eligible GEAR UP students described in HEA section 404E. However, HEA section 404E(b)(2) permits the Secretary to allow a State to use more than 50 percent of grant funds received under this program for GEAR UP project activities described in HEA section 404D if the State demonstrates that it has another means of providing eligible GEAR UP students with the financial assistance described in HEA section 404E and describes such means in the State's application.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 65 pages and (2) use the following standards:

- A ''page″ is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, captions as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point font or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications or the one-page abstract. However, the recommended page limit does apply to all of the application narrative.

We recommend that any application addressing the competitive preference priorities and invitational priorities include no more than three additional pages for each priority addressed. Applicants that do not follow the page limit and formatting recommendations will not be penalized.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and section 404D(a) of the HEA.

a. *Need for project (15 points).*

(i) The Secretary considers the need for the proposed project.

(ii) In determining the need for the proposed project, the Secretary considers:

(A) The magnitude or severity of the problem to be addressed by the proposed project (up to 8 points); and

(B) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses (up to 7 points).

b. *Quality of the project design (25 points).*

(i) The Secretary considers the quality of the design of the proposed project.

(ii) In determining the quality of the design of the proposed project, the Secretary considers:

(A) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (up to 10 points); and

(B) The extent to which the proposed project demonstrates a rationale (as defined in this notice) (up to 15 points).

c. *Quality of project services (15 points).*

(i) The Secretary considers the quality of the services to be provided by the proposed project.

(ii) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 5 points).

(iii) In addition, the Secretary considers:

(A) The extent to which the project services are likely to provide comprehensive mentoring, outreach, and supportive services to students, including the following activities: providing information regarding financial aid for postsecondary education to participating students, encouraging student enrollment in rigorous and challenging curricula and coursework in order to reduce the need for remedial coursework at the postsecondary level, and improving the number of participating students who obtain a secondary school diploma and complete applications for and enroll in a program of postsecondary education (up to 5 points); and

(B) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services (up to 5 points).

d. *Quality of project personnel (10 points).*

(i) The Secretary considers the quality of the personnel who will carry out the proposed project.

(ii) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 2 points).

(iii) In addition, the Secretary considers:

(A) The qualifications, including relevant training and experience, of the project director or principal investigator (up to 4 points); and

(B) The qualifications, including relevant training and experience, of key project personnel (up to 4 points).

e. *Quality of the management plan (10 points).*

(i) The Secretary considers the quality of the management plan for the proposed project.

(ii) In determining the quality of the management plan for the proposed project, the Secretary considers:

(A) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (up to 4 points);

(B) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project (up to 2 points);

(C) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (up to 2 points); and

(D) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate (up to 2 points).

f. *Quality of the project evaluation (10 points).*

(i) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(ii) In determining the quality of the project evaluation, the Secretary considers:

(A) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (up to 4 points);

(B) The extent to which the methods of evaluation will provide performance feedback and permit periodic

assessment of progress toward achieving intended outcomes (up to 4 points); and

(C) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings (up to 2 points).

g. *Adequacy of resources (15 points).*

(i) The Secretary considers the adequacy of resources for the proposed project.

(ii) In determining the adequacy of resources for the proposed project, the Secretary considers:

(A) The adequacy of support, including facilities, equipment, supplies and other resources from the applicant organization or the lead applicant organization and the relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project (up to 5 points);

(B) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits (up to 5 points); and

(C) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support (up to 5 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, a panel of non-Federal reviewers will review each application in accordance with the selection criteria in 34 CFR 75.217(d)(3), as required by 20 U.S.C. 1070–a23(d). The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process.

If there are insufficient funds for all applications with the same total scores, the Secretary will, to the extent practicable, consider the distribution of grant awards based on the geographic distribution of such grant awards and the distribution between urban and rural applicants for the GEAR UP program consistent with 20 U.S.C. 1070a-22(a)(3).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN), or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we will notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after

your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The performance measures for the GEAR UP Program are established for the Government Performance and Results Act of 1993 (GPRA). These measures are also used for Department reporting under 34 CFR 75.110. The objectives of the GEAR UP program are (1) to increase the academic performance and preparation for postsecondary education of participating students; (2) to increase the rate of high school graduation and participation in postsecondary education of participating students; and (3) to increase education expectations for participating students and increase student and family knowledge of postsecondary education options, preparation, and financing.

The effectiveness of this program depends on the rate at which program participants complete high school and enroll in and complete a postsecondary education. Under GPRA, we developed the following performance measures to track progress toward achieving the program's goals:

1. The percentage of GEAR UP students who pass Algebra 1 or its equivalent by the end of ninth grade.

2. The percentage of GEAR UP students who graduate from high school.

3. The percentage of GEAR UP students who complete the Free Application for Federal Student Aid.

4. The percentage of GEAR UP students and former GEAR UP students who are enrolled at an IHE.

5. The percentage of current GEAR UP students and former GEAR UP students who enrolled at an IHE and persisted to the second year of postsecondary education at the initial or a subsequent IHE.

In addition, to assess the efficiency of the program, we track the average cost, in Federal funds, of achieving a successful outcome, where success is defined as enrollment in a program of undergraduate instruction at an IHE of GEAR UP students immediately after high school graduation. These performance measures constitute GEAR UP's indicators of the success of the program. Accordingly, we require that applicants include these performance measures in conceptualizing the design, implementation, and evaluation of their proposed projects.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Michelle Asha Cooper,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2021–08980 Filed 4–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0063]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for the Business and International Education (BIE) Program (1894–0001)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement with change of a previously approved collection.

DATES: Interested persons are invited to submit comments on or before June 1, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tanyelle Richardson, 202–453–6391.

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: Application for the Business and International Education (BIE) Program (1894–0001).

OMB Control Number: 1840–0794.

Type of Review: Reinstatement with change of a previously approved collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 100.

Total Estimated Number of Annual Burden Hours: 11,000.

Abstract: The Business and International Education program provides grants to institutions of higher education that enter into an agreement with a trade association to improve the academic teaching of the business curriculum and to conduct outreach activities that will assist the local business community to compete in the global arena. This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection request.

Dated: April 26, 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. 2021–08938 Filed 4–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–ED–2021–SCC–0065]

Agency Information Collection Activities; Comment Request; Federal Student Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 28, 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–0065. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W208D Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Student Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms.

OMB Control Number: 1845–0018.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Individuals or Households.*Total Estimated Number of Annual Responses:* 27,042.

Total Estimated Number of Annual Burden Hours: 6,393.

Abstract: These forms serve as the means by which borrowers in the William D. Ford Federal Direct Loan (Direct Loan), Federal Family Education Loan (FFEL) and the Federal Perkins Loan (Perkins Loan) Programs may request forbearance of repayment on their loans if they meet certain conditions. The U.S. Department of Education and other loan holders uses the information collected on these forms to determine whether a borrower meets the eligibility requirements for the specific type of forbearance.

Dated: April 26, 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. 2021–08939 Filed 4–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0013]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Office of Special Education and Rehabilitative Services Peer Reviewer Data Form

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 1, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Justin Hampton, 202–245–6111.

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: Office of Special Education and Rehabilitative Services Peer Reviewer Data Form.

OMB Control Number: 1820–0583.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 350.

Total Estimated Number of Annual Burden Hours: 88.

Abstract: The OSERS Peer Reviewer Data Form (OPRDF) is used by OSERS staff to identify potential reviewers who would be qualified to review specific types of grant applications for funding. OSERS uses this form to collect background contact information for each potential reviewer; and to provide information on any reasonable accommodations that might be required by the individual. OSERS is requesting an extension of the expiration date with no changes to the form. The previous version of the OPRDF, 1820–0583, will expire on May 31, 2021.

Dated: April 26, 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. 2021–08960 Filed 4–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Gaining Early Awareness and Readiness for Undergraduate Programs (Partnership Grants)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Partnership Grants, Assistance Listing Number 84.334A. This notice relates to the approved information collection under OMB control number 1840–0821, Application for GEAR UP Partnership Grants.

DATES:

Applications Available: April 29, 2021.

Deadline for Transmittal of Applications: June 28, 2021.

Deadline for Intergovernmental Review: August 27, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Ben Witthoefft, U.S. Department of Education, 400 Maryland Avenue SW, Room 2C215, Washington, DC 20202–6450. Telephone: (202) 453–7576. Email: *Ben.Witthoefft@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The GEAR UP program is a discretionary grant program that encourages eligible entities to provide support, and maintain a commitment, to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education. Under the GEAR UP program, the Department awards grants to two types of entities: (1) States and (2) partnerships consisting of at least one institution of higher education (IHE) and at least one local educational agency (LEA).

Background: In this notice, the Department invites applications for partnership grants only. We will invite applications for State grants in another notice published in the **Federal Register**. Required services under the GEAR UP program are specified in section 404D(a) of the Higher Education

Act of 1965, as amended (HEA) (20 U.S.C. 1070a–24(a)), and permissible services under the GEAR UP program are specified in section 404D(b) of the HEA (20 U.S.C. 1070a–24(b)). For partnership grantees, activities must include providing financial aid information for postsecondary education, encouraging enrollment in rigorous and challenging coursework in order to reduce the need for remediation at the postsecondary level, and implementing activities to improve the number of participating students who obtain a secondary school diploma and who complete applications for and enroll in a program of postsecondary education. Activities may also include mentoring; tutoring; supporting dual or concurrent enrollment programs that support participating students in science, technology, engineering, or mathematics (STEM); academic and career counseling; financial and economic literacy education; and exposure to college campuses.

Recent data suggest that the COVID–19 pandemic has created academic challenges and greatly exacerbated mental health issues among school-aged youth. For example, the Centers for Disease Control (CDC) reports the proportion of emergency room visits related to mental health crises has increased dramatically for young children and adolescents since the start of the pandemic.[1] Researchers also estimate that COVID–19-related disruptions may put students substantially behind, particularly in topics like mathematics, causing many to reenter school with more variability in their academic skills compared to normal circumstances.[2]

In addition, the transition to remote learning has introduced academic challenges for all students, particularly students from low-income backgrounds, students of color, English learners, and students with disabilities. Students living in rural communities face additional challenges to accessing instruction. Across the Nation, there are gaps in access to broadband in rural locations and on Tribal lands. In addition to less access to academic instruction, COVID–19 has impacted the well-being of rural students[3] and their likelihood of enrolling in postsecondary education.[4]

Priorities: This notice contains two competitive preference priorities and three invitational priorities. Competitive Preference Priority 1 is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities). Competitive Preference Priority 2 is from 34 CFR 75.226.

Competitive Preference Priorities: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application depending on how well the application meets the priorities.

These priorities are:

Competitive Preference Priority 1—Fostering Flexible and Affordable Paths to Obtaining Knowledge and Skills (up to 3 points).

Projects that are designed to provide work-based learning experiences (such as internships, apprenticeships, and fellowships) that align with in-demand industry sectors or occupations (as defined in section 3(23) of the Workforce Innovation and Opportunity Act of 2014).

Competitive Preference Priority 2—Promising Evidence (up to 2 points).

Applications supported by evidence that meets the conditions in the definition of ''promising evidence'' in 34 CFR 77.1(c).

Note 1: To address the priority, an applicant may submit one study or What Works Clearinghouse (WWC) publication that it believes supports the implementation of a GEAR UP authorized activity proposed in the application and that meets the promising evidence standard. For Partnership grantees, required GEAR UP services are specified in section 404D(a) of the HEA (20 U.S.C. 1070a–24(a)), and permissible services are specified in section 404D(b) and (c) of the HEA (20 U.S.C. 1070a–24(b)).

Non-Federal peer reviewers will evaluate studies cited by the applicants to determine if they meet the requirements for promising evidence, as well as whether they are sufficiently aligned with (relevant to) the proposed activity. Applicants will be awarded one point for each authorized activity supported by a relevant citation that meets the promising evidence standard, for a maximum of two points.

Cited studies may include both those already listed in the Department's WWC Database of Individual Studies (see *https://ies.ed.gov/ncee/wwc/StudyFindings*) and those that have not yet been reviewed by the WWC. Studies listed in the WWC Database of Individual Studies do not necessarily satisfy any or all of the criteria needed to meet the promising evidence standard. Therefore, it is important that applicants themselves ascertain the suitability of the study for the evidence priority. Any proposed studies must be cited in the section of the application that addresses Competitive Preference Priority 2.

Invitational Priorities: For FY 2021, and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105 (c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Building Capacity for Remote Learning.

Projects that are designed to address one or both of the following priority areas:

(a) Providing personalized and job-embedded professional learning to build the capacity of GEAR UP educators who serve GEAR UP participants to create remote learning experiences for GEAR UP participants that advance student engagement and learning through effective use of technology (*e.g.,* both live and video conferencing professional learning opportunities, professional learning networks or communities, and coaching).

(b) Providing access to software applications to GEAR UP participants without access to such software applications to meet all GEAR UP students' and GEAR UP educators' remote learning needs, regardless of whether students and educators are inside the school building or in remote learning environments.

Note: The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable. The remote learning environment must also provide appropriate remote learning language assistance services to English learners.

For the purposes of this priority, ''remote learning'' means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner's education needs. Remote learning may include online, hybrid/blended learning, or non-technology-based

[1] *www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm.*

[2] *www.brookings.edu/blog/brown-center-chalkboard/2020/05/27/the-impact-of-covid-19-on-student-achievement-and-what-it-may-mean-for-educators/.*

[3] *www.pnas.org/content/118/1/2019378118.www.gse.harvard.edu/news/20/10/harvard-edcast-covid-19s-impact-rural-schools.*

[4] *https://thecollegepost.com/covid-rural-student-enrollment/.*

learning (*e.g.,* lab kits, project supplies, paper packets).

Invitational Priority 2—Addressing the Impact of COVID–19 on Students' Mental Health and Academic Outcomes.

Projects designed to provide integrated student support services (also known as wrap-around services) for GEAR UP participants to address mental health and academic support needs due to the COVID–19 pandemic. An applicant should describe in its application how it will collaborate with any partners to provide resources to support students and communities hit the hardest by COVID–19 and implement evidence-based best practices to address the existing inequities exacerbated by the pandemic. The proposed system of integrated student support services should include services that meet the whole needs of students from low-income backgrounds, including aid for school supplies, transportation costs as allowable by program regulations, connections to mental health services, mentoring, tutoring, and peer support groups, that help ensure graduation from high school and enrollment in postsecondary education.

Invitational Priority 3—Providing GEAR UP Services to Schools Located in Rural Areas.

Applications that include descriptive plans to provide GEAR UP services and resources in rural communities and schools, including those local educational agencies (LEAs) with a locale code of 32, 33, 41, 42, or 43.

Definitions: These definitions are from 34 CFR 77.1(c).

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Note: In developing logic models, applicants may want to use resources such as the Regional Educational Laboratory Program's (REL Pacific) Education Logic Model Application, available at *https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp,* to help design their logic models. Other sources include: *https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014025.pdf, https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf,* and *https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf.*

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Program Authority: 20 U.S.C. 1070a–21—1070a–28.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension

(Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 694. (e) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $35,617,582.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $100,000–$5,000,000.

Estimated Average Size of Awards: $1,200,000.

Maximum Award: We will not fund any application for a partnership grant above the maximum award of $800 per student for a single budget period of 12 months. Additionally, no funding will be awarded for increases in years two through seven.

Estimated Number of Awards: 28.

Note: The Department is not bound by any estimates in this notice.

Project Period: Either 72 months or 84 months.

Note: An applicant that wishes to seek funding for a seventh project year (*i.e.,* for a project period greater than 72 months), in order to provide project services to GEAR UP students through their first year of attendance at an IHE, must propose to do so in its application.

III. Eligibility Information

1. *Eligible Applicants:* Partnerships consisting of (a) at least one LEA and (b) at least one degree-granting IHE. Partnerships may include not less than two other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under the Leveraging Educational Assistance Partnership Program authorized in part A, subpart 4, of title IV of the HEA (20 U.S.C. 1070c *et seq.*), or other public or private agencies or organizations (20 U.S.C. 1070a–21(c)(2)).

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* Section 404C(b)(1) of the HEA requires grantees under this program to provide from State, local, institutional, or private funds, not less than 50 percent of the cost of the program (or one dollar of non-Federal funds for every one dollar of Federal funds awarded), which may be provided in cash or in-kind. The provision also specifies that the match may be accrued over the full duration of the grant award period, except that the grantee must make substantial progress towards meeting the matching requirement in each year of the grant award period. Section 404C(c) of the HEA provides that in-kind contributions may include (1) the amount of the financial assistance obligated under GEAR UP to students from State, local, institutional, or private funds, (2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under GEAR UP, (3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of non-school organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations, and (4) equipment and supplies, cash contributions from non-Federal sources, transportation expenses, in-kind or discounted program services, indirect costs, and facility usage.

Section 404C(b)(2) further provides that the Secretary may approve a partnership's request for a reduced match percentage at the time of application if the partnership demonstrates significant economic hardship that precludes the partnership from meeting the matching requirement, or if the partnership requests that contributions to the scholarship fund be matched on the basis of two non-Federal dollars for every one Federal dollar of GEAR UP funds. GEAR UP program regulations in 34 CFR 694.8(a)–(c) address the content of an applicant's request for such a reduced match, and the maximum percentage match that the Secretary may waive. In addition, the Secretary may approve a reduction in match of up to 70 percent upon request from a partnership that (a) includes three or fewer IHEs as members (b) has a fiscal agent identified in 34 CFR 694.8(d)(1), and (c) serves students in schools and LEAs that meet the poverty criteria identified in 34 CFR 694.8(d)(2) and (3).

Given the importance of matching funds to the long-term success of the project, eligible entities must describe how they will meet the matching requirement and sources of matching funds, as required by *General Application Requirements* (b) and (j).

b. *Supplement-Not-Supplant:* This competition involves supplement, not supplant funding requirements. Under section 404B(e) of the HEA (20 U.S.C. 1070a–22(e)), grant funds awarded under this program must be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this program.

c. *Indirect Cost Rate Information:* For projects that designate an LEA as the fiscal agent, the GEAR UP program regulations at 34 CFR 694.11 limit indirect cost reimbursement to the rate determined in the LEA's negotiated indirect cost rate agreement or eight percent of a modified total direct cost base, whichever amount is less. For projects that designate an IHE as the fiscal agent, the GEAR UP program uses a training indirect cost rate. This rate limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to

entities to directly carry out project activities described in its application.

4. *Other: General Application Requirements:* All applicants must meet the following application requirements in order to be considered for funding. The application requirements are from section 404C(a) of the HEA (20 U.S.C. 1070a–23(a)).

In order for an eligible entity to qualify for a grant under the GEAR UP program, the eligible entity must submit to the Secretary an application for carrying out a GEAR UP program that—

(a) Describes the activities for which assistance under this program is sought, including how the eligible entity will carry out the required activities described in section 404D(a) of the HEA;

(b) Describes, in the case of an eligible entity described in section 404A(c)(2) of the HEA that chooses to provide scholarships, or an eligible entity described in section 404A(c)(1) of the HEA, how the eligible entity will meet the requirements of section 404E of the HEA;

(c) Describes, in the case of an eligible entity described in section 404A(c)(2) of the HEA that requests a reduced match percentage under subsection (b)(2), how such reduction will assist the entity to provide the scholarships described in subsection (b)(2)(A)(ii);

(d) Provides assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 404D of the HEA;

(e) Provides assurances that activities assisted under this program will not displace an employee or eliminate a position at a school assisted under this program, including a partial displacement such as a reduction in hours, wages, or employment benefits;

(f) Describes, in the case of an eligible entity described in section 404A(c)(1) of the HEA that chooses to use a cohort approach, or an eligible entity described in section 404A(c)(2) of the HEA, how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 404B(d) of the HEA, and how the eligible entity will serve the cohorts through grade 12, including—

(i) How vacancies in the program under this program will be filled; and

(ii) How the eligible entity will serve students attending different secondary schools;

(g) Describes how the eligible entity will coordinate programs under this program with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

(h) Provides such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this program;

(i) Provides information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit; and

(j) Describes the sources of matching funds that will enable the eligible entity to meet the matching requirement described in subsection (b).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Content and Form of Application Submission:* You must include your complete response to the selection criteria and the competitive preference priorities in the application narrative. Other requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 65 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all the text in the application narrative, including titles, headings, footnotes, quotations, references, captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications or the one-page abstract. However, the recommended page limit does apply to all of the application narrative.

We recommend that any application addressing the competitive preference priorities and invitational priorities include no more than three additional pages for each priority addressed. Applications that do not follow the page limit and formatting recommendations will not be penalized.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and section 404D(a) of the HEA.

a. *Need for project (15 points).*

(i) The Secretary considers the need for the proposed project.

(ii) In determining the need for the proposed project, the Secretary considers:

(A) The magnitude or severity of the problem to be addressed by the proposed project (up to 8 points); and

(B) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses (up to 7 points).

b. *Quality of the project design (25 points).*

(i) The Secretary considers the quality of the project design of the proposed project.

(ii) In determining the quality of project design of the proposed project, the Secretary considers:

(A) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (up to 10 points);

(B) The extent to which the proposed project demonstrates a rationale (as defined in this notice) (up to 15 points).

c. *Quality of project services (15 points).*

(i) The Secretary considers the quality of the services to be provided by the proposed project.

(ii) In determining the quality of project services provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups

that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 5 points).

(iii) In addition, the Secretary considers the following factors:

(A) The extent to which the project services are likely to provide comprehensive mentoring, outreach, and supportive services to students, including the following activities: information regarding financial aid for postsecondary education to participating students, encouraging student enrollment in rigorous and challenging curricula and coursework in order to reduce the need for remedial coursework at the postsecondary level, and improving the number of participating students who obtain a secondary school diploma and complete applications for and enroll in a program of postsecondary education (up to 5 points); and

(B) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services (up to 5 points).

d. *Quality of project personnel (10 points).*

(i) The Secretary considers the quality of the personnel who will carry out the proposed project.

(ii) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age or disability (up to 2 points).

(iii) In addition, the Secretary considers:

(A) The qualifications, including relevant training and experience, of the project director or principal investigator (up to 4 points); and

(B) The qualifications, including relevant training and experience, of key project personnel (up to 4 points).

e. *Quality of the management plan (10 points).*

(i) The Secretary considers the quality of the management plan for the proposed project.

(ii) In determining the quality of the management plan for the proposed project, the Secretary considers:

(A) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (up to 4 points);

(B) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project (up to 2 points);

(C) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (up to 2 points); and

(D) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate (up to 2 points).

f. *Quality of the project evaluation (10 points).*

(i) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(ii) In determining the quality of the project evaluation, the Secretary considers the following factors:

(A) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (up to 4 points);

(B) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes (up to 2 point); and

(C) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings (up to 2 points); and

(D) The extent to which the methods of evaluation will, if well-implemented, produce promising evidence (as defined in this notice) about the project's effectiveness (up to 2 points).

g. *Adequacy of resources (15 points).*

(i) The Secretary considers the adequacy of resources for the proposed project.

(ii) In determining the adequacy of resources for the proposed project, the Secretary considers:

(A) The adequacy of support, including facilities, equipment, supplies and other resources from the applicant organization or the lead applicant organization and the relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project (up to 5 points);

(B) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits (up to 5 points); and

(C) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support (up to 5 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, a panel of non-Federal reviewers will review each application in accordance with the selection criteria in 34 CFR 75.217(d)(3) as required by 20 U.S.C. 1070–a23(d). The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process.

If there are insufficient funds for all applications with the same total scores, to the extent practicable the Secretary will consider the distribution of grant awards based on the geographic distribution of such grant awards and the distribution between urban and rural applicants for the GEAR UP program consistent with 20 U.S.C. 1070a–22(a)(3).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose special conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN), or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we will notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The performance measures for the GEAR UP Program are established for the Government Performance and Results Act of 1993 (GPRA) and used for Department reporting under 34 CFR 75.110. The objectives of the GEAR UP program are (1) to increase the academic performance and preparation for postsecondary education of participating students; (2) to increase the rate of high school graduation and participation in postsecondary education of participating students; and (3) to increase educational expectations for participating students and increase student and family knowledge of postsecondary education options, preparation, and financing.

The effectiveness of this program depends on the rate at which program participants complete high school and enroll in and complete a postsecondary education. Under GPRA, we developed the following performance measures to track progress toward achieving the program's goals:

1. The percentage of GEAR UP students who pass Algebra 1 or its equivalent by the end of ninth grade.

2. The percentage of GEAR UP students who graduate from high school.

3. The percentage of GEAR UP students who complete the Free Application for Federal Student Aid.

4. The percentage of GEAR UP students and former GEAR UP students who are enrolled at an IHE.

5. The percentage of current GEAR UP students and former GEAR UP students who enrolled at an IHE and persisted to the second year of postsecondary education at the initial or a subsequent IHE.

In addition, to assess the efficiency of the program, we track the average cost, in Federal funds, of achieving a successful outcome, where success is defined as enrollment in a program of undergraduate instruction at an IHE of GEAR UP students immediately after high school graduation. These performance measures constitute GEAR UP's indicators of the success of the program. Accordingly, we request that applicants include these performance measures in conceptualizing the design,

implementation, and evaluation of their proposed projects.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23) as well as all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portal Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Michelle Asha Cooper,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2021–08976 Filed 4–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–78–000]

ANR Pipeline Company; Notice of Scoping Period Requesting Comments on Environmental Issues for The Proposed; Wisconsin Access 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 Wisconsin Access Project involving construction and operation of facilities by ANR Pipeline Company (ANR) in Oconto, Oneida, Manitowoc, and Marathon Counties, Wisconsin. 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 5:00pm Eastern Time on May 24, 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 March 12, 2021, you will need to file those comments in Docket No. CP21–78–000 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.

ANR 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 (CP21–78–000) 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

ANR proposes to facilitate an increase in the firm capacity on its natural gas pipeline by approximately 50,707 dekatherms per day into Wisconsin, through software modifications and minor modifications to its existing Coleman, Lena, Meeme, Mosinee, Rhinelander, Suring, and Two Rivers Meter Stations. The modifications include the replacement of some metering and filtering equipment, installation of additional metering equipment, and replacement of two meter station buildings.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 4.1 acres of land, 2.4 acres of which are within the existing facility fencelines. Following construction, ANR would convert less than 0.1 acre for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

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[2] 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.[3] 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.[4] The environmental document for this

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this notice. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

[4] 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.

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 CP21–78–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on the 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: April 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–08958 Filed 4–28–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10023–07–OLEM]

Thirty-Ninth Update of the Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (''Docket'') under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. This notice identifies the Federal facilities not previously listed on the Docket and identifies Federal facilities reported to EPA since the last update on October 29, 2020. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list and a section of Federal facilities that are to be deleted from the Docket. Thus, the revisions in this update include two additions, zero deletions, and zero corrections to the Docket since the previous update.

DATES: This list is current as of March 31, 2021.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates* by clicking on the link for *Cleanups at Federal Facilities* or by contacting Benjamin Simes (*Simes.Benjamin@epa.gov*), Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office. Additional information on the Docket and a complete list of Docket sites can be obtained at: *https://www.epa.gov/fedfac/fedfacts.*

SUPPLEMENTARY INFORMATION:

Table of Contents

1.0 Introduction
2.0 Regional Docket Coordinators
3.0 Revisions of the Previous Docket
4.0 Process for Compiling the Updated Docket
5.0 Facilities Not Included
6.0 Facility NPL Status Reporting, Including NFRAP Status
7.0 Information Contained on Docket Listing

1.0 Introduction

Section 120(c) of CERCLA, 42 U.S.C. 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires EPA to establish the Federal Agency Hazardous Waste Compliance Docket. The Docket contains information on Federal facilities that manage hazardous waste and such information is submitted by Federal agencies to EPA under sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937. Additionally, the Docket contains information on Federal facilities with a reportable quantity of hazardous substances that has been released and such information is submitted by Federal agencies to EPA under section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA section 3010 requires waste generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA section 101. Additionally, CERCLA section 103(c) requires facilities that have ''stored, treated, or disposed of'' hazardous wastes and where there is ''known, suspected, or likely releases'' of hazardous substances to report their activities to EPA.

CERCLA section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that

the evaluation and listing of sites with a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a threat to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public. Previous Docket updates are available at *https://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates.*

This notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/docket-reference-manual-federal-agency-hazardous-waste-compliance-docket-interim-final* or obtained by calling the Regional Docket Coordinators listed below. This notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket.[1] The information submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the Federal facility is located; for a description of the information required under those provisions, *see* 53 FR 4280 (February 12, 1988). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each Federal facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) status changes. However, information on NFRAP and NPL status is no longer being provided separately in the Docket update as it is now available at: *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

- *U.S. EPA Region 1.* Martha Bosworth (HBS), 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston, MA 02109–3912, (617) 918–1407.
- *U.S. EPA Region 2.* Cathy Moyik (ERRD), 290 Broadway, New York, NY 10007–1866, (212) 637–4339.
- *U.S. EPA Region 3.* Joseph Vitello (3HS12), 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.
- *U.S. EPA Region 3.* Dawn Fulsher (3HS12), 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3270.
- *U.S. EPA Region 4.* Alayna Famble (9T25), 61 Forsyth St. SW, Atlanta, GA 30303, (404) 564–8444.
- *U.S. EPA Region 5.* David Brauner (SR–6J), 77 W Jackson Blvd., Chicago, IL 60604, (312) 886–1526.
- *U.S. EPA Region 6.* Philip Ofosu (6SF–RA), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.
- *U.S. EPA Region 7.* Todd H. Davis (SUPRERSP), 11201 Renner Blvd., Lenexa, KS 66219, (913) 551–7749.
- *U.S. EPA Region 8.* Ryan Dunham (EPR–F), 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.
- *U.S. EPA Region 9.* Leslie Ramirez (SFD–6–1), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3978.
- *U.S. EPA Region 10.* Ken Marcy, Oregon Operations Office, 805 SW Broadway, Suite 500, Portland, OR 97205, (503) 326–3269.

3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions and corrections to the list of Docket facilities since the previous Docket update.

3.1 Additions

These Federal facilities are being added primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA sections 3005, 3010, or 3016 or CERCLA section 103). CERCLA section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL. This notice includes two additions.

3.2 Deletions

There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket. The criteria EPA uses in deleting sites from the Docket include: A facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (*e.g.,* 40 CFR 262.44); a facility that was not Federally-owned or operated at the time of the listing; a facility included more than once (*i.e.,* redundant listings); or when multiple facilities are combined under one listing. (*See* Docket Codes (*Reasons for Deletion of Facilities*) for a more refined list of the criteria EPA uses for deleting sites from the Docket.) Facilities being deleted no longer will be subject to the requirements of CERCLA section 120(d). This notice includes zero deletions.

3.3 Corrections

Changes necessary to correct the previous Docket are identified by both EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between the Superfund Enterprise Management System (SEMS) and the Docket. For the Federal facility for which a correction is entered, the original entry is as it appeared in previous Docket updates. The corrected update is shown directly below, for easy comparison. This notice includes zero corrections.

4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published in this notice, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the WebEOC, the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Act Information System (RCRAInfo), and SEMS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the

[1] See Section 3.2 for the criteria for being deleted from the Docket.

current Docket list and contacts the other Federal Agency (OFA) with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to contact the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice if revisions of this update information are necessary.

5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have not, more than once per calendar year, generated more than 1,000 kg of hazardous waste in any single month; (3) Federal facilities that are very small quantity generators (VSQGs) that have never generated more than 100 kg of hazardous waste in any month; (4) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA section 3010; and (5) Federal facilities that have mixed mine or mill site ownership.

An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether ''mixed ownership'' mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported under section 103(a) of CERCLA, should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/policy-listing-mixed-ownership-mine-or-mill-sites-created-result-general-mining-law-1872.* The policy of not including these facilities may change; facilities now omitted may be added at some point if EPA determines that they should be included.

6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In prior updates, information regarding NFRAP status changes was provided separately.

7.0 Information Contained on Docket Listing

The information is provided in three tables. The first table is a list of additional Federal facilities that are being added to the Docket. The second table is a list of Federal facilities that are being deleted from the Docket. The third table is for corrections.

The Federal facilities listed in each table are organized by the date reported. Under each heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2]

The statutory provisions under which a Federal facility is reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each Federal facility: For example, Sections 3005, 3010, 3016, 103(c), or Other. ''Other'' has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan at 40 CFR 300.405 addresses discovery or notification, outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with section 103(a) of CERCLA, *i.e.,* reportable quantities codified at 40 CFR 302; (2) a report submitted to EPA in accordance with section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with section 105(d) of CERCLA; (7) a report submitted in accordance with section 311(b)(5) of the Clean Water Act; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. As of the date of this notice, the total number of Federal facilities that appear on the Docket is 2,382.

Dated: April 22, 2021.

Gregory Gervais,

Director, Federal Facilities Restoration and Reuse Office, Office of Land and Emergency Management.

7.1 Docket Codes/Reasons for Deletion of Facilities

- *Code 1.* Small-Quantity Generator and Very Small Quantity Generator. Show citation box
- *Code 2.* Never Federally Owned and/or Operated.
- *Code 3.* Formerly Federally Owned and/or Operated but not at time of listing.
- *Code 4.* No Hazardous Waste Generated.
- *Code 5.* (This code is no longer used.)
- *Code 6.* Redundant Listing/Site on Facility.
- *Code 7.* Combining Sites Into One Facility/Entries Combined.
- *Code 8.* Does Not Fit Facility Definition.

7.2 Docket Codes/Reasons for Addition of Facilities

- *Code 15.* Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.
- *Code 16.* One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split.
- *Code 16A.* NPL site that is part of a Facility already listed on the Docket.
- *Code 17.* New Information Obtained Showing That Facility Should Be Included.
- *Code 18.* Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.
- *Code 19.* Sites Were Combined Into One Facility.

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

• *Code 19A.* New Currently Federally Owned and/or Operated Facility Site.

7.3 Docket Codes/Types of Corrections of Information About Facilities

• *Code 20.* Reporting Provisions Change.

• *Code 20A.* Typo Correction/Name Change/Address Change.

• *Code 21.* Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)

• *Code 22.* Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal Agency submits proof of previously performed PA, which is subject to approval by EPA.)

• *Code 24.* Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #39—ADDITIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date
FOOD AND DRUG ADMINISTRATION (FDA)—College Park Campus.	F STREET	WASHINGTON	DC	20405	FOOD AND DRUG ADMINISTRATION.	RCRA 3010	19A	UPDATE #39.
FOOD & DRUG ADMINISTRATION—MUIRKIRK ROAD CAMPUS.	INDEPENDENCE AVE, SW.	WASHINGTON	DC	20201	FOOD AND DRUG ADMINISTRATION.	RCRA 3010	19A	UPDATE #39.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #39—DELETIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #39—CORRECTIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code	Date

[FR Doc. 2021–08959 Filed 4–28–21; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0519; FRS 23287]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before June 28, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0519.

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991, CG Docket No. 02–278.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions.

Number of Respondents and Responses: 169,369 respondents; 191,628,905 responses.

Estimated Time per Response: .004 hours (15 seconds) to 1 hour.

Frequency of Response: Annual, monthly, on occasion and one-time reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements are found in the Telephone Consumer Protection Act of 1991 (TCPA), Public Law 102–243, December 20, 1991, 105 Stat. 2394, which added Section 227 of the Communications Act of 1934, [47 U.S.C. 227] Restrictions on the Use of Telephone Equipment.

Total Annual Burden: 3,251,008 hours. Total Annual Cost: $1,357,200.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN),

FCC/CGB–1, ''Informal Complaints and Inquiries.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 ''Informal Complaints, Inquiries, and Requests for Dispute Assistance'', in the **Federal Register** on August 15, 2014 (79 FR 48152) which became effective on September 24, 2014. A system of records for the do-not-call registry was created by the Federal Trade Commission (FTC) under the Privacy Act. The FTC originally published a notice in the **Federal Register** describing the system. *See* 68 FR 37494, June 24, 2003. The FTC updated its system of records for the do-not-call registry in 2009. *See* 74 FR 17863, April 17, 2009.

Privacy Impact Assessment: Yes.

Needs and Uses: The reporting requirements included under this OMB Control Number 3060–0519 enable the Commission to gather information regarding violations of section 227 of the Communications Act, the Do-Not-Call Implementation Act (Do-Not-Call Act), and the Commission's implementing rules. If the information collection was not conducted, the Commission would be unable to track and enforce violations of section 227 of the Communications Act, the Do-Not-Call Act, or the Commission's implementing rules. The Commission's implementing rules provide consumers with several options for avoiding most unwanted telephone solicitations.

The national do-not-call registry supplements the company-specific do-not-call rules for those consumers who wish to continue requesting that particular companies not call them. Any company that is asked by a consumer, including an existing customer, not to call again must honor that request for five (5) years. A provision of the Commission's rules, however, allows consumers to give specific companies permission to call them through an express written agreement. Nonprofit organizations, companies with whom consumers have an established business relationship, and calls to persons with whom the telemarketer has a personal relationship are exempt from the ''do-not-call'' registry requirements.

On September 21, 2004, the Commission released the *Safe Harbor Order,* published at 69 FR 60311, October 8, 2004, establishing a limited safe harbor in which persons will not be liable for placing autodialed and prerecorded message calls to numbers ported from a wireline service within the previous 15 days. The Commission also amended its existing National Do-Not-Call Registry safe harbor to require telemarketers to scrub their lists against the Registry every 31 days.

On December 4, 2007, the Commission released the *DNC NPRM,* published at 72 FR 71099, December 14, 2007, seeking comment on its tentative conclusion that registrations with the Registry should be honored indefinitely, unless a number is disconnected or reassigned or the consumer cancels his registration.

On June 17, 2008, in accordance with the Do-Not-Call Improvement Act of 2007, the Commission revised its rules to minimize the inconvenience to consumers of having to re-register their preferences not to receive telemarketing calls and to further the underlying goal of the National Do-Not-Call Registry to protect consumer privacy rights. The Commission released a *Report and Order* in CG Docket No. 02–278, FCC 08–147, published at 73 FR 40183, July 14, 2008, amending the Commission's rules under the Telephone Consumer Protection Act (TCPA) to require sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry so that registrations will not automatically expire based on the current five-year registration period. Specifically, the Commission modified § 64.1200(c)(2) of its rules to require sellers and/or telemarketers to honor numbers registered on the Registry indefinitely or until the number is removed by the database administrator or the registration is cancelled by the consumer.

On February 15, 2012, the Commission released a *Report and Order* in CG Docket No. 02–278, FCC 12–21, originally published at 77 FR 34233, June 11, 2012, and later corrected at 77 FR 66935, November 8, 2012, revising its rules to: (1) Require prior express written consent for all autodialed or prerecorded telemarketing calls to wireless numbers and for all prerecorded telemarketing calls to residential lines; (2) eliminate the established business relationship exception to the consent requirement for prerecorded telemarketing calls to residential lines; (3) require telemarketers to include an automated, interactive opt-out mechanism in all prerecorded telemarketing calls, to allow consumers more easily to opt out of future robocalls during a robocall itself; and (4) require telemarketers to comply with the 3% limit on abandoned calls during each calling campaign, in order to discourage intrusive calling campaigns.

Finally, the Commission also exempted from the Telephone Consumer Protection Act requirements prerecorded calls to residential lines made by health care-related entities governed by the Health Insurance Portability and Accountability Act of 1996.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–08975 Filed 4–28–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0952; FRS 23261]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 28, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0952.

Title: Proposed Demographic Information and Notifications, Second Further Notice of Proposed Rulemaking (FNPRM), CC Docket No. 98–147 and Fifth NPRM (NPRM), CC Docket No. 96–98.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 750 respondents; 1,500 responses.

Frequency of Response: On occasion reporting requirements and third party disclosure requirement.

Estimated Time per Response: 2 hours.

Total Annual Burden: 3,000 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 201, 202, 251–254, 256 and 271 of the Communications Act of 1934, as amended.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the FCC. If the applicants wish to submit information which they believe is confidential, they may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission asked whether physical collocation in remote terminals presents technical or security concerns, and if so, whether these concerns warrant modification of its collocation rules. The Commission asked whether incumbent LECs should be required to provide requesting carriers with demographic and other information regarding particular remote terminals similar to the information available regarding incumbent LEC central offices. Requesting carriers use demographic and other information obtained from incumbent LECs to determine whether they wish to collocate at particular remote terminals. This proposed information collection in the Second Further Notice of Proposed Rulemaking, FCC 98–147, will be used by the Commission, state commissions, and competitive carriers to facilitate the deployment of advanced services and other telecommunications services in implementation of section 251(c)(6) of the Communications Act of 1934, as amended. The number of respondents, annual responses, and annual burden hours have not changed.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–08956 Filed 4–28–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; 3060–XXXX; FRS 23676]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before June 1, 2021.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–XXXX.

Title: FCC Authorization for Radio Service Authorization; Wireless Telecommunications Bureau; Public Safety and Homeland Security Bureau, FCC Form 601–2.0.

Form Number: FCC Form 601–2.0.

Type of Review: New collection.

Respondents: Individual and households, Business or other for-profit entities, state, local, or tribal government, and not for profit institutions.

Number of Respondents: 24 respondents; 176 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: Recordkeeping requirement; third party disclosure requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152, 155(c), 158, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, and 333 of the Communications Act of 1934.

Total Annual Burden: 88 hours.

Total Annual Cost: $18,150.

Privacy Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: The Commission is submitting a request to the Office of Budget and Management (OMB) for approval of the FCC Form 601–2.0, a new data collection that will gradually replace the FCC Form 601 (3060–0798). The Commission is implementing a new electronic licensing system called Universal Licensing System 2.0 (ULS 2.0) to replace the current Universal Licensing System (ULS). Services will gradually be moved to the new ULS 2.0, beginning with market-based Special Temporary Authority (STA) applications.

The burden hours and costs associated with market-based STAs will now be a part of the ULS 2.0 system and FCC Form 601–2.0. The FCC Form 601–2.0 will be a consolidated electronic data collection for market-based and site-based licensing for wireless telecommunications services, including public safety, which will be filed through the Commission's modernized Universal Licensing System 2.0 (ULS–2.0).

This form will gradually replace the FCC Form 601 (3060–0798) as services are moved from legacy ULS to ULS 2.0. The substance of and wording of the FCC Form 601 data collection will remain the same in the new system. The data collected in ULS 2.0 consists of administrative, technical, and other information needed for licensing if wireless radio services. Once fully implemented, this system will be used to submit all Wireless Services applications along with any supporting documentation. The application purposes include: Applying for a new license (including STA's) modifying or renewing an existing license, cancelling a license, submitting required notifications, requesting an extension of time to satisfy construction requirements, and requesting an administrative update to an existing license (such as mailing address change). Applicants can also amend or withdraw applications while they are pending in ULS.2.0. The data collected in ULS 2.0 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires entities filing with the Commission to use an FRN. ULS 2.0 data records may include information about individuals or households, *e.g.,* personally identifiable information or PII, and the use(s) and disclosure of this information are governed by the requirements of a system of records notice or ''SORN'', FCC/WTB–1, ''Wireless Services Licensing Records.'' There are no additional impacts under the Privacy Act.

OMB Control Number: 3060–XXXX.

Title: Legacy Support Usage Flexibility Certification.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: Up to 110 respondents and 110 responses.

Estimated Time per Response: 1.75 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 193 hours.

Total Annual Cost: $16,500.

Nature and Extent of Confidentiality: The information collected under this collection will be made publicly available. However, to the extent that a respondent seeks to have certain information collected in response to this information collection withheld from public inspection, the respondent may request confidential treatment pursuant to 47 CFR 0.459 of the Commission's rules, 47 CFR Section 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: A request for approval of this new information collection will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from OMB.

On November 18, 2011, the Commission released the USF/ICC Transformation Order (FCC 11–161) in which it comprehensively reformed and modernized the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. In the USF/ICC Transformation Order, the Commission, among other things, adopted a requirement that all ETCs offer broadband service in their supported area that meets certain basic performance requirements and report regularly on associated performance measures as a condition of receiving federal high-cost universal service support.

On October 27, 2020, the Commission adopted the 5G Fund Report and Order (FCC 20–150) in which it, among other things, helped to complete the reform of the high-cost program begun in the USF/ICC Transformation Order by adopting additional public interest obligations and performance requirements for legacy high-cost support recipients, whose broadband-specific public interest obligations for mobile wireless services were not previously detailed.

The public interest obligations adopted in the 5G Fund Report and Order for each competitive eligible telecommunications carrier (ETC) receiving legacy high-cost support for mobile wireless services require that such a carrier (1) use an increasing percentage of its legacy support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G meeting the adopted performance requirements within its subsidized service area(s), and (2) meet specific 5G broadband service deployment coverage requirements and service deployment milestone deadlines that take into consideration the amount of legacy support the carrier receives. With respect to the requirement to use an increasing percentage of its legacy support toward the deployment, maintenance, and operation of voice and broadband networks that support5G, the rules adopted in the 5G Fund Report and Order specify that each legacy support recipient must use at least one-third of the legacy support it receives in 2021, at least two-thirds of the legacy support it receives in 2022,

and all of the legacy support in 2023 and beyond for these purposes.

To address a concern that budgets and deployment plans for 2021 are largely complete, which could make it difficult for some competitive ETCs to achieve the 2021 support usage requirement, the Commission adopted a rule that affords such competitive ETCs the flexibility to use less than one-third of their legacy support in 2021 and make up for any shortfall in 2021 by proportionally increasing the requirement in 2022 (above the two-thirds of its support the competitive ETC is required to spend on 5G in that year). See 47 CFR 54.322(c)(4).

In order to take advantage of this flexibility, a competitive ETC receiving legacy support for mobile wireless services must submit a certification in which it (1) provides information regarding the service area(s) for which it and any affiliated mobile competitive ETC(s) receive legacy supportand the annual amount of support they receive in each area; (2) indicates the total amount of legacy high-cost support to be spent on the deployment, maintenance, and operation of mobile networks that provide 5G service in calendar year 2021 across the identified service areas; and (3) certifies that any 2021 spending shortfall will be made up in 2022. Only those competitive ETCs receiving legacy high-cost support for mobile wireless services that wish to avail themselves of the flexibility concerning their 2021 and 2022 legacy high-cost support usage requirements will be required to respond to this information collection.

The certification will be used by the Commission to identify how much a competitive ETC that chooses to avail itself of the flexibility concerning its 2021 and 2022 legacy high-cost support usage requirements will spend on 5G in 2021 and the spending shortfall it must make up in 2022, and to confirm the competitive ETC's commitment to make up its 2021 spending shortfall in 2022 in accordance with its certification and the Commission's rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–08978 Filed 4–28–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, May 4, 2021 at 10:00 a.m. and its continuation at the conclusion of the open meeting on May 6, 2021.

PLACE: 1050 First Street NE, Washington, DC (This meeting will be a virtual meeting).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer; Telephone: (202) 694–1220.

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2021–09103 Filed 4–27–21; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: 60-Day Public Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, the Federal Maritime Commission (Commission) invites comments on the continuing information collection (extension with no changes) listed below in this notice.

DATES: Written comments must be submitted on or before June 28, 2021.

ADDRESSES: Submit comments for the proposed information collection request to Karen V. Gregory, Managing Director at email: *omd@fmc.gov.* Please refer to the assigned OMB control number on any correspondence submitted. The FMC will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection and instruction, or copies of any comments received, may be obtained by contacting Donna Lee at *omd@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Commission, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collection listed in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments. We invite comments on: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Open for Comment

Title: 46 CFR part 565—Controlled Carriers.

OMB Approval Number: 3072–0060 (Expires September 30, 2021).

Abstract: 46 U.S.C. 40701–40706 requires that the Commission monitor the practices of controlled carriers to ensure that they do not maintain rates or charges in their tariffs and service contracts that are below a level that is just and reasonable; nor establish, maintain, or enforce unjust or unreasonable classifications, rules, or regulations in those tariffs or service contracts that result or are likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. 46 CFR part 565 establishes the method by which the Commission determines whether a particular ocean common carrier is a controlled carrier subject to 46 U.S.C. 40701–40706. When a government acquires a controlling interest in an ocean common carrier, or when a controlled carrier newly enters a United States trade, the Commission's rules require that such a carrier notify the Commission of these events.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses these notifications in order to effectively discharge its statutory duty to determine whether a particular ocean common carrier is a controlled carrier and therefore subject to the requirements of 46 U.S.C. 40701–40706.

Frequency: The submission of notifications from controlled carriers is not assigned to a specific time frame by the Commission; they are submitted as circumstances warrant. The Commission only requires notification when a majority portion of an ocean common carrier becomes owned or controlled by a government, or when a controlled carrier newly begins operation in any United States trade.

Type of Respondents: Controlled carriers are ocean common carriers which are owned or controlled by a government.

Number of Annual Respondents: The Commission cannot anticipate when a new controlled carrier may enter the United States trade or when ownership or control of a carrier will change so that notification is required. Over the past three years, the Commission has received, on average, fewer than one notification per year.

Estimated Time per Response: The estimated time for each notification is 2 hours

Total Annual Burden: For purposes of calculating total annual burden, the Commission assumes one response annually. The Commission thus estimates the total annual burden to be 2 hours (1 response × 2 hours per response).

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–08957 Filed 4–28–21; 8:45 am]

BILLING CODE 6730–02–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 May 14, 2021.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *John C. Feltl, Chanhassen, Minnesota, individually, and as trustee of the JCF Trust, Minnetonka, Minnesota; and Elizabeth F. Frye, individually, and as trustee of the EFF Trust, both of Minnetrista, Minnesota;* to become members of the John C. Feltl and Elizabeth F. Frye family group, previously known as the Mary Joanne Feltl Family Group, a group acting in concert, to retain voting shares of Inver Grove Bancshares, Inc., and thereby indirectly retain voting shares of Key Community Bank, both of Inver Grove Heights, Minnesota.

Board of Governors of the Federal Reserve System, April 26, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–08989 Filed 4–28–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Variations in Implementation of Quality Interventions (VIQI) Project (0970–0508)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Planning, Research, and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting a 3-year extension with changes to continue collecting data for the study Variations in Implementation of Quality Interventions (VIQI). In addition to extending data collection, OPRE proposes to update burden estimates to accommodate a different sample size of centers, administrators, teachers, and coaches; to revise data collection instruments and activities for the impact evaluation and process study in line with lessons learned during the pilot study; to add a second timepoint of data collection for the teacher reports to questions about children; to provide one new instrument to collect parent report of children's skills and behaviors; and to provide one new instrument in anticipation of COVID–19 necessitating further information gathering to contextualize findings from the impact evaluation and process study.

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: Through the VIQI Project, OPRE aims to inform policymakers, practitioners, and stakeholders about effective ways to support the quality and effectiveness of early care and education (ECE) centers for promoting young children's learning and development. The VIQI Project completed a pilot study in about 40 centers in three metropolitan areas in 2018–2019 that is informing a year-long impact evaluation and process study that involves testing the effectiveness of two curricular and professional development models aiming to strengthen the quality of classroom processes and children's outcomes. The impact evaluation and process study is expected to begin in the fall of 2021 and will include about 140 community-based and Head Start ECE centers spread across about 12 different metropolitan areas in the United States.

The VIQI Project will consist of a 3-group experimental design where the initial quality and other characteristics of ECE centers are measured. For details

about the study design, see the Supporting Statements at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202008-0970-009.*

In anticipation of changes to center characteristics due to COVID–19, annual burden estimates and instruments have been updated to accommodate a different sample size of centers, administrators, teachers, and coaches for the impact evaluation and process study.

The previously approved data collection instruments for the impact evaluation and process study include the following:

(1) Instruments for Screening and Recruitment of ECE Centers. We do not propose any changes to these materials;

(2) Baseline Instruments. Modifications made to surveys remove items that showed little variation in the pilot study, edit item wording to increase clarity and ease of understanding, and add a few new items to capture new constructs of interest based upon the insights gained from the pilot study. The child assessment and classroom observation instruments have been updated to reflect the selected assessments and observations. We added an additional time point of data collection (baseline) for teacher reports on questions about children in the classroom and have added in questions about children's academic skills. Parent/guardian reports to questions about children in the classroom have been added to gather information about children's skills at the beginning of the impact evaluation and process study. Administrator/teacher COVID–19 supplemental survey questions have been added to gather information about how the pandemic has changed typical center and classroom programming and functioning, if there is a need to contextualize findings from the impact evaluation and process study due to circumstances surrounding the COVID–19 pandemic at the time of data collection;

(3) Follow-Up Instruments. Modifications made to surveys remove items that showed little variation in the pilot study, edit item wording to increase clarity and ease of understanding, and add a few new items to capture new constructs of interest based upon insights gained from the pilot study. The child assessment and classroom observation instruments have been updated to reflect the selected assessments and observations. We added in questions about children's academic skills to the teacher reports on questions about children in the classroom. Parent/guardian reports to questions about children have been added to gather information about children's skills at the end of the impact evaluation and process study; and

(4) Fidelity of Implementation Instruments. Modifications to the Coach Log have been made to remove or consolidate items that showed little variation or proved less useful in the pilot study and to edit item wording to increase clarity and ease of understanding.

Respondents: Staff members working in Head Start grantee and community-based child care oversight agencies, staff members working in about 140 ECE centers in about 12 metropolitan areas across the United States, and parents and children being served in these centers.

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)
Instruments for Screening and Recruitment of ECE Centers for the Impact Evaluation and Process Study					
Landscaping protocol with Stakeholder Agencies (staff burden in Head Start (HS) *grantee* and community-based child care *agencies*)	120	1	1.50	180	60
Screening protocol for phone calls (staff burden in HS *grantees* and community-based child care *agencies*)	132	1	2.0	264	88
Screening protocol for phone calls (HS and community-based child care *center* staff burden)	336	1	1.2	403	134
Protocol for follow-up calls/in-person visits for screening and recruitment activities (staff burden in HS *grantees* and community-based child care *agencies*)	610	1	1.5	915	305
Protocol for follow-up calls/in-person visits for screening and recruitment activities (HS and community-based child care *center* staff burden)	950	1	1.2	1140	380
Baseline Instruments for the Impact Evaluation and Process Study					
Baseline administrator survey	175	1	0.6	105	35
Baseline coach survey	59	1	0.6	35	12
Baseline teacher/assistant teacher survey	1050	1	0.6	630	210
Baseline parent/guardian information form in Impact Evaluation only	6300	1	0.1	630	210
Baseline classroom observation protocol (teacher burden)	420	1	0.3	126	42
Baseline protocol for child assessments in Impact Evaluation only (child burden)	4200	1	0.5	2100	700
Parent/guardian reports to questions about children (administered as part of the baseline parent/guardian information form)	6300	1	0.1	630	210
Teacher reports to questions about children in classroom (administered as part of the baseline teacher survey)	420	10	0.17	714	238

ANNUAL BURDEN ESTIMATES—Continued

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)
Administrator/teacher COVID–19 supplemental survey questions (administered as part of or in addition to administrator and/or teacher survey, to contextualize findings from impact evaluation and process study due to circumstances surrounding COVID–19 at the time of data collection)	980	1	0.25	245	82
Follow-Up Instruments for Impact Evaluation and Process Study					
Follow-up administrator survey	140	1	0.5	70	23
Follow-up coach survey	47	1	0.5	24	8
Follow-up teacher/assistant teacher survey	840	1	0.75	630	210
Parent/guardian reports to questions about children	6300	1	0.1	630	210
Teacher reports to questions about children in classroom (administered as part of the follow-up teacher survey)	420	10	0.17	714	238
Follow-up classroom observation protocol (teacher burden)	420	3	0.3	378	126
Follow-up protocol for child assessments in Impact Evaluation only (child burden)	4200	1	0.9	3780	1260
Fidelity of Implementation Instruments for the Process Study					
Coach log	47	108	0.25	1269	423
Teacher/assistant teacher log	840	36	0.25	7560	2520
Implementation fidelity observation protocol (teacher burden)	80	1	0.3	24	8
Interview/Focus group protocol (administrator, teacher/assistant teacher and coach burden)	236	1	1.5	354	118

Estimated Total Annual Burden Hours: 7,850.

Authority: 42 U.S.C. 9858(a)(5); 42 U.S.C. 9835; and 42 U.S.C. 9844.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–08916 Filed 4–28–21; 8:45 am]

BILLING CODE 4184–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–1837]

Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic User Fee Payment Request Forms

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on electronic user fee payment request forms.

DATES: Submit either electronic or written comments on the collection of information by June 28, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 28, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 28, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and

Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–1837 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic User Fee Payment Request Forms.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Electronic User Fee Payment Request Forms—Form FDA 3913 and Form FDA 3914

OMB Control Number 0910–0805—Extension

Form FDA 3913, User Fee Payment Refund Request, is designed to provide the minimum necessary information for FDA to review and process a user fee payment refund. The information collected includes the organization, contact, and payment information. The information is used to determine the reason for the refund, the refund amount, and who to contact if there are any questions regarding the refund request. A submission of the User Fee Payment Refund Request form does not guarantee that a refund will be issued. FDA estimates an average of 0.40 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. The estimated hours are based on past FDA experience with the user fee payment refund request.

In fiscal year 2020, approximately 474 user fee refunds were processed for cover sheets and invoices including 0 for Animal Drug User Fees, 0 for Animal Generic Drug User Fees, 1 for Biosimilar Drug User Fees, 0 for Export Certificate Program fees, 0 for Freedom of Information Act requests, 31 for Generic Drug User Fees, 200 for Medical Device User Fees, 240 for Medical Device Federal Unified Registration and Listing fees, 0 for Mammography inspection fees, 1 for Prescription Drug User Fees, and 0 for Tobacco product fees.

Form FDA 3914, User Fee Payment Transfer Request, is designed to provide the minimum necessary information for FDA to review and process a user fee payment transfer request. The information collected includes payment and organization information. The information is used to determine the reason for the transfer, how the transfer should be performed, and who to contact if there are any questions regarding the transfer request. A submission of the User Fee Payment Transfer Request form does not guarantee that a transfer will be performed. FDA estimates an average of 0.25 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. FDA estimated hours are based on past FDA experience with the user fee payment transfer requests.

In fiscal year 2020, approximately 194 user fee payment transfers were processed for cover sheets and invoices including 0 for Animal Drug User Fees, 0 for Animal Generic Drug User Fees, 1 for Biosimilar Drug User Fees, 34 for Generic Drug User Fees, 78 for Medical Device User Fees, 80 for Medical Device Federal Unified Registration and Listing fees, 0 for Mammography inspection fees, 1 for Prescription Drug User Fees, and 0 for Tobacco product fees.

Respondents for the electronic request forms include domestic and foreign firms (including pharmaceutical, biological, medical device firms, etc.). Specifically, refund request forms target

respondents who submitted a duplicate payment or overpayment for a user fee cover sheet or invoice. Respondents may also include firms that withdrew an application or submission. Transfer request forms target respondents who submitted payment for a user fee cover sheet or invoice and need that payment to be re-applied to another cover sheet or invoice (transfer of funds).

The electronic user fee payment request forms streamline the refund and transfer processes, facilitate processing, and improve the tracking of refund or transfer requests. The burden for this collection of information is the same for all customers (small and large organizations). The information being requested or required has been held to the absolute minimum required for the intended use of the data. Respondents are able to request a user fee payment refund or transfer online at *https://www.fda.gov/forindustry/userfees/default.htm.* This electronic submission is intended to reduce the burden for customers to submit a user fee payment refund and transfer request.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
User Fee Payment Refund Request-Form FDA 3913 ..	474	1	474	0.40 (24 minutes)	190
User Fee Payment Transfer Request-Form FDA 3914	194	1	194	0.25 (15 minutes)	49
Total	.....	.....	.....	.....	239

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The current burden estimate shows a decrease of approximately 642 hours for this information collection over that reported previously. The change reflects increased experience by the respondents to correctly submit fee payments, and increased sophistication in use of the forms to request payments made in error. The use of the forms for the user fee programs (*e.g.,* Prescription Drug User Fees, Generic Drug User Fees, Animal Drug User Fees, Animal Generic Drug User Fees, Biosimilar Drug User Fees) are optional.

In addition, new information technology applications have more accurately calculated the number of registrants of drug facilities/food facilities/medical device facilities/medicated feed facilities, and we have therefore revised the number of respondents to the information collection.

Dated: April 23, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–08947 Filed 4–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6730]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection associated with requirements for medical device reporting for user facilities, manufacturers, importers, and distributors of medical devices.

DATES: Submit either electronic or written comments on the collection of information by June 28, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 28, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 28, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6730 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device Reporting.'' Received comments,

those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Device Reporting—21 CFR Part 803

OMB Control Number 0910–0437—Extension

This information collection supports FDA regulations and FDA's Medical Device Reporting program. Section 519(a), (b), and (c) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360i(a), (b), and (c)) requires user facilities, manufacturers, importers, and distributors of medical devices to report adverse events involving medical devices to FDA. These provisions are codified in part 803 (21 CFR part 803), Medical Device Reporting. As amended most recently by the FDA Reauthorization Act of 2017 (FDARA) (Pub. L. 115–52), medical device manufacturers and importers must submit medical device reports (MDRs) using FDA's electronic submission system. User facilities, however, may elect to submit reports using paper-based Form FDA 3500A—MedWatch—Mandatory Reporting (approved under OMB control number 0910–0291). The regulations also establish recordkeeping requirements and provide for certain exemptions, variances, or alternative forms of reporting. Exemptions and/or variances from individual reporting must be requested in writing and must receive Agency approval. Additionally, the regulations permit user facilities to submit paper-based annual reports, for which we have developed Form FDA 3419 entitled ''Medical Device Reporting Annual User Facility Report.''

This information collection also includes the use of existing formats such as Form FDA 3500A [1]—MedWatch—Mandatory Reporting to allow manufacturers to summarize in a single report multiple events with shared characteristics for device associated reportable malfunction events. For example, the Voluntary Malfunction Summary Reporting Program (VMSRP) [2] provides recommendations for manufacturers of certain devices to submit a single report that summarizes multiple device associated reportable malfunction events on a quarterly basis. The VMSRP was established under section 519(a)(1)(B)(ii) of the FD&C Act and reflects goals for streamlining malfunction reporting as outlined in the Medical Device User Fee Amendments (MDUFA) IV ''Commitment Letter'' for 2018 through 2022 agreed to by FDA and industry and submitted to Congress. The Commitment Letter was finalized with the passage of FDARA on August 18, 2017, and, as passed, is entitled ''MDUFA Performance Goals And Procedures, Fiscal Years 2018 Through 2022.'' [3]

The information that is obtained from this information collection will be used to evaluate risks associated with medical devices and enable FDA to take appropriate measures to protect the public health. Complete, accurate, and timely adverse event information is necessary for the identification of emerging device problems so the Agency can protect the public health under section 519 of the FD&C Act. FDA makes the releasable information available to the public for downloading on its website. Respondents are manufacturers and importers of medical devices and device user facilities.[4]

[1] Form FDA 3500A is approved under OMB control number 0910–0291.

[2] In the **Federal Register** of August 17, 2018 (83 FR 40973), FDA issued a notification permitting manufacturers to report certain device malfunction MDRs in summary form on a quarterly basis.

[3] Available at: *https://www.fda.gov/downloads/ForIndustry/UserFees/MedicalDeviceUserFee/UCM535548.pdf.*

[4] Device user facility means a hospital, ambulatory surgical facility, nursing home, outpatient diagnostic facility, or outpatient treatment facility as defined in § 803.3, which is not a physician's office (also defined in § 803.3).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/21 CFR section	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours [2]
Exemptions/Variances—803.19		85	4	340	1	340
User Facility Reporting—803.30 and 803.32.		520	10.06	5,232	0.35 (21 minutes)	1,831
User Facility Annual Reporting—803.33.	3419	159	1	159	1	159
Importer Reporting, Death and Serious Injury—803.40 and 803.42.		578	1	578	1	578
Manufacturer Reporting—803.50, 803.52 and 803.53.		1,240	272.50	337,900	0.10 (6 minutes)	33,790
Voluntary Malfunction Summary Reporting Program.		1,240	54.47	67,546	0.10 (6 minutes)	6,755
Supplemental Reports—803.56		1,050	128.71	135,148	0.10 (6 minutes)	13,515
Total						56,968

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Number has been rounded.

The number of respondents to the information collection is based on MDRs received by FDA recently. The annual frequency per response and total annual responses shown are based on the number of MDRs reported during the same period. FDA estimates that approximately 10 percent of malfunction reports are submitted. Approximately 67 percent of the manufacturer reports received under 21 CFR 803.50, 803.52, and 803.53 are malfunction reports.

Supplemental Reports—21 CFR 803.56. We estimate that, at most, the number of supplemental reports is approximately one third of the total number of individual reports and summary reports submitted annually. Therefore, our estimate of the number of responses per respondent is 128.71.

Voluntary Malfunction Summary Reporting Program. The VMSRP includes the same respondent pool as individual manufacturer reporting. We expect that a summary report will take approximately the same amount of time to prepare as an individual report. (Note: device-led combination products are included in the burden estimate for the VMSRP.) As discussed in section I of the proposed VMSRP, FDA's Pilot Program for Medical Device Reporting on Malfunctions showed an 87 percent reduction in the volume of reporting for malfunction reports with use of malfunction summary reporting. Assuming 90 percent of malfunction reports are submitted in summary reports, we estimate that manufacturers would submit an average of 54.47 summary reports annually under the program.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
MDR Procedures—803.17	1,240	1	1,240	3.3	4,092
MDR Files—803.18	1,240	1	1,240	1.5	1,860
Total					5,952

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The number of respondents in table 2 is based on the MDRs reported to FDA's internal databases recently. We believe that the majority of respondents (manufacturers, user facilities, and importers) have already established written procedures and MDR files to document complaints and information to meet the MDR requirements as part of their internal quality control system. We have therefore adjusted our estimate downward.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours [2]
Importer Reporting, Death and Serious Injury—803.40 and 803.42.	578	25	14,450	0.35 (21 minutes)	5,058

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Number has been rounded.

The number of respondents for each CFR section in table 3 was identified from the MDRs reported to FDA's internal databases during the period recently.

Based on a review of the information collection since our last request for OMB approval, we have made no changes to our burden estimate.

Dated: April 21, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–08962 Filed 4–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0359]

Agency Information Collection Activities; Proposed Collection; Comment Request; Human Drug Compounding, Repackaging, and Related Activities Regarding Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with Agency guidance documents pertaining to pharmacies, outsourcing facilities, and other entities with regard to human drug compounding, repackaging, and related activities.

DATES: Submit either electronic or written comments on the collection of information on or before June 28, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 28, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 28, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–N–0359 for ''Human Drug Compounding, Repackaging, and Related Activities Regarding Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed additional collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed additional collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Human Drug Compounding, Repackaging, and Related Activities Regarding Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

OMB Control Number 0910–0858—Revision

This information collection supports implementation of sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 353a and 21 U.S.C. 353b), which govern compounding by pharmacies, outsourcing facilities, and other entities. Compounding is generally a practice in which a licensed pharmacist, a licensed physician, or, in the case of an outsourcing facility, a person under the supervision of a licensed pharmacist, combines, mixes, or alters ingredients of a drug to create a medication tailored to the needs of an individual patient. Although compounded drugs can serve an important medical need for certain patients, they also present risks to patients. Our compounding program aims to protect patients from unsafe, ineffective, and poor quality compounded drugs, while preserving access to lawfully-marketed compounded drugs for patients who have a medical need for them. Respondents to the information collection are pharmacies, outsourcing facilities, and other entities.

To assist respondents in complying with statutory requirements, we have issued the following topic-specific guidance documents:

TABLE 1—PUBLISHED GUIDANCE DOCUMENTS REGARDING SECTIONS 503A AND 503B OF THE FD&C ACT

Title	Notice of availability publication date
Compounding and Repackaging of Radiopharmaceuticals by State-Licensed Nuclear Pharmacies, Federal Facilities, and Certain Other Entities ("*Radiopharmaceutical Compounding and Repackaging Guidance*").	September 26, 2018 (83 FR 48633).
Compounding and Repackaging of Radiopharmaceuticals by Outsourcing Facilities ("*Radiopharmaceutical Outsourcing Repackaging Guidance*").	September 26, 2018 (83 FR 48630).
Repackaging of Certain Human Drug Products by Pharmacies and Outsourcing Facilities ("*Repackaging Guidance*").	January 13, 2017 (82 FR 4343).
Mixing, Diluting, or Repackaging Biological Products Outside the Scope of an Approved Biologics License Application ("*Biologics Guidance*").	January 19, 2018 (83 FR 2787).

These guidance documents were issued consistent with our Good Guidance Practice regulations in 21 CFR part 10.115 which provide for public comment at any time. The guidance documents communicate our current thinking on the respective topics and include information collection that may result in expenditures of time and effort by respondents. In our notices of availability we also solicited public comment under the PRA on the information collection provisions. FDA has developed and maintains a searchable guidance database available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* Guidance documents covered by this information collection may be found by choosing "Center for Drug Evaluation and Research" from among the FDA Organizations, and by selecting the term "Compounding" from among the possible Filters.[1] For efficiency of operations we are consolidating the related information collections.

Compounding and Repackaging of Radiopharmaceuticals by State-Licensed Nuclear Pharmacies, Federal Facilities, and Certain Other Entities

Because Congress explicitly excluded radiopharmaceuticals from section 503A of the FD&C Act (see section 503A(d)(2)), compounded radiopharmaceuticals are not eligible for the exemptions under section 503A from section 505 of the FD&C Act (21 U.S.C. 355) (concerning new drug approval requirements), section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) (concerning labeling with adequate directions for use), and section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)B)) (concerning current good manufacturing practice (CGMP) requirements). In addition, the FD&C Act does not provide an exemption for repackaged radiopharmaceuticals. This guidance document describes the conditions under which FDA does not intend to take action for violations of sections 505, 502(f)(1), and 501(a)(2)(B) of the FD&C Act when a state-licensed nuclear pharmacy, Federal facility, or other facility that is not an outsourcing facility and that holds a radioactive materials license for medical use issued by the Nuclear Regulatory Commission or by an Agreement State compounds or repackages radiopharmaceuticals for human use. The guidance explains that one condition is that the compounded radiopharmaceutical is not essentially a copy of an approved radiopharmaceutical. As described in the guidance, FDA does not intend to consider a compounded radiopharmaceutical to be essentially a copy if, among other reasons, there is a change between the compounded radiopharmaceutical and the approved radiopharmaceutical that produces a clinical difference for an identified individual patient, as determined by the prescribing practitioner and

[1] Guidance documents applicable to animal drug compounding regulated by our Center for Veterinary Medicine would also be returned if no FDA Organization is selected; this information collection covers only those Compounding documents issued by the Center for Drug Evaluation and Research.

documented in writing on the prescription or order. In addition, FDA does not intend to consider a compounded radiopharmaceutical to be essentially a copy if the FDA-approved radiopharmaceutical is on FDA's drug shortage list (see section 506E of the FD&C Act (21 U.S.C. 356e)) at the time of compounding and distribution. If the facility compounded a drug that is identical or nearly identical to an approved drug product that appeared on FDA's drug shortage list, the facility should maintain documentation (*e.g.,* a notation on the order for the compounded drug) regarding the status of the drug on FDA's drug shortage list at the time of compounding, distribution, and dispensing.

Radiopharmaceutical Outsourcing Repackaging Guidance

In contrast to section 503A, section 503B of the FD&C Act does not exclude radiopharmaceuticals. Therefore, FDA's overall policies regarding section 503B apply to the compounding of radiopharmaceutical drug products. However, we have developed specific policies that apply only to the compounding of radiopharmaceuticals by outsourcing facilities using bulk drug substances and to the compounding of radiopharmaceuticals by outsourcing facilities that are essentially copies of approved drugs when such compounding is limited to minor deviations, as that term is defined in the guidance. FDA issued this guidance in part to describe the conditions under which the Agency does not generally intend to take action for violations of sections 505 and 502(f)(1) of the FD&C Act when an outsourcing facility repackages radiopharmaceuticals for human use.

As discussed in the guidance, one condition is that if a radiopharmaceutical is repackaged by an outsourcing facility, the label on the immediate container (primary packaging, *e.g.,* the syringe) of the repackaged product includes certain information. The guidance also provides that the label on the container from which the individual units are removed for administration (secondary packaging, *e.g.,* the bag, box, or other package in which the repackaged products are distributed) includes: (1) The active and inactive ingredients, if the immediate product label is too small to include this information, and directions for use, including (as appropriate) dosage and administration and (2) the following information to facilitate adverse event reporting: *https://www.fda.gov/medwatch* and 1–800–FDA–1088.

Repackaging Guidance

This guidance describes the conditions under which FDA does not intend to take action for violations of sections 505 (concerning new drug applications), 502(f)(1) (concerning labeling with adequate directions for use), 582 ((21 U.S.C. 360eee-1) concerning drug supply chain security requirements), and (where specified in the guidance) section 501(a)(2)(B) of the FD&C Act (concerning CGMPs), when a state-licensed pharmacy, Federal facility, or outsourcing facility repackages certain prescription drug products. One condition discussed in the guidance is that if a drug is repackaged by an outsourcing facility, the label on the immediate container (primary packaging, *e.g.,* the syringe) of the repackaged product includes certain information described in the guidance.

Another condition discussed in the guidance is that the label on the container from which the individual units are removed for administration (secondary packaging, *e.g.,* the bag, box, or other package in which the repackaged products are distributed) includes: (1) The active and inactive ingredients, if the immediate product label is too small to include this information, and directions for use, including (as appropriate) dosage and administration, (2) directions for use, including, as appropriate, dosage and administration, and (3) the following information to facilitate adverse event reporting: *https://www.fda.gov/medwatch* and 1–800–FDA–1088.

Biologics Guidance

Certain licensed biological products may sometimes be mixed, diluted, or repackaged in a way not described in the approved labeling for the product to meet the needs of a specific patient. As described in the guidance, biological products subject to licensure under section 351 of the Public Health Service (PHS) Act (42 U.S.C. 262) are not eligible for the statutory exemptions available to certain compounded drugs under sections 503A and 503B of the FD&C Act. In addition, a biological product that is mixed, diluted, or repackaged outside the scope of an approved Biologics License Application (BLA) is considered an unlicensed biological product under section 351 of the PHS Act.

This guidance document describes several conditions under which FDA does not intend to take action for violations of section 351 of the PHS Act and sections 502(f)(1), 582, and (where specified) 501(a)(2)(B) of the FD&C Act, when a State-licensed pharmacy, a Federal facility, or an outsourcing facility dilutes, mixes, or repackages certain biological products outside the scope of an approved BLA.

One condition discussed in the guidance is that if the labeling for the licensed biological product includes storage instructions, handling instructions, or both (for example, protect from light, do not freeze, keep at specified storage temperature), the labeling for the biological product that is mixed, diluted, or repackaged specifies the same storage conditions. Another condition described in the guidance is that, if the biological product is mixed, diluted, or repackaged by an outsourcing facility, the label on the immediate container (primary packaging, for example, the syringe) of the mixed, diluted, or repackaged product includes certain information described in the guidance. In addition, the guidance communicates that as a condition for biological products mixed, diluted, or repackaged by an outsourcing facility that, if the immediate product label is too small to bear the active and inactive ingredients, such information is included on the label of the container from which the individual units are removed for administration (secondary packaging, for example, the bag, box, or other package in which the mixed, diluted, or repackaged biological products are distributed).

The guidance also communicates our thinking about the condition for biological products mixed, diluted, or repackaged by an outsourcing facility that the label on the container from which the individual units are removed for administration include directions for use. These directions include, as appropriate, the dosage and administration and the following information to facilitate adverse event reporting: *https://www.fda.gov/medwatch* and 1–800–FDA–1088.

Finally, another condition described in the guidance is that outsourcing facilities maintain records of the testing performed in accordance with ''Appendix A—Assigning a BUD for Repackaged Biological Products Based On Stability Testing'' of the guidance for biological products repackaged by outsourcing facilities for which the beyond use date (BUD) is established based on a stability program conducted in accordance with Appendix A.

Section III.C of the guidance, ''Licensed Allergenic Extracts for Subcutaneous Immunotherapy,'' discusses the preparation of prescription sets (that is, licensed allergenic extracts that are mixed and diluted to provide subcutaneous

immunotherapy to an individual patient) by a physician, a State-licensed pharmacy, a Federal facility, or an outsourcing facility. Another condition described in the guidance is that if the prescription set is prepared by an outsourcing facility, the label of the container from which the individual units of the prescription set are removed for administration (secondary packaging) includes the following information to facilitate adverse event reporting: *https://www.fda.gov/medwatch* and 1–800–FDA–1088. Each prescription set prepared by an outsourcing facility is also accompanied by instructions for use.

We estimate the burden of this information collection as follows:

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Radiopharmaceutical Guidance					
Consultation between the compounder and prescriber and the notation on the prescription or order documenting the prescriber's determination of clinical difference.	10	25	250	.05 (3 minutes)	12.5
Radiopharmaceutical Outsourcing and Repackaging Guidance					
Designing, testing, and producing each label on immediate containers, packages and/or outer containers.	2	5	10	0.5 (30 minutes)	5
Repackaging Guidance					
Designing, testing, and producing each label on immediate containers, packages, and/or outer containers.	6	21	126	1	126
Biannual product reports identifying drug products repackaged by the outsourcing facility during the previous 6-month period (Guidance Section III.A.).	6	2	12	3	24
Biologics Guidance					
Designing, testing, and producing the label, container, packages, and/or outer containers for each mixed, diluted, or repackaged biological product.	15	5	75	0.5 (30 minutes)	37.5
Designing, testing, and producing each label on immediate containers, packages and/or outer containers for each licensed allergenic extract.	5	300	1,500	0.5 (30 minutes)	750
Maintaining records of testing performed in accordance with Biologics Guidance Appendix A.	5	30	150	0.083 (5 minutes) ...	12.5
Total	.....	.....	2,123	.....	967.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

As defined in 44 U.S.C. 3502(13), the term ''recordkeeping requirement'' means a requirement imposed on respondents to maintain specified records, as well as a requirement to ''retain such records; notify third parties, the Federal Government, or the public of the existence of such records; disclose such records to third parties, the Federal Government, or the public; or report to third parties, the Federal Government, or the public regarding such records.'' For purposes of our analysis, therefore, we have characterized the burden associated with the time and effort expended on the information collection recommendations discussed in the respective guidance documents as recordkeeping activities. At the same time, our findings show that compliance with recordkeeping requirements applicable to compounded and repackaged drug products is standard practice in the compounding and selling of these drug products under States' pharmacy laws and other State laws governing recordkeeping by healthcare professionals and healthcare facilities. We have therefore excluded from our estimate recordkeeping practices discussed in the respective guidance documents we consider usual and customary. We invite comment on this assumption.

Radiopharmaceutical Compounding and Repackaging Guidance

We estimate 10 compounders annually will consult a prescriber to determine whether a compounded radiopharmaceutical has a change that produces a clinical difference for an identified individual patient as compared to the comparable approved radiopharmaceutical. We estimate that those compounders will document this determination on 250 prescriptions or orders for compounded radiopharmaceuticals. We assume consultation between the compounder and the prescriber and noting this determination on each prescription or order that does not already document this determination will take 3 minutes (0.05 hours) per prescription or order, for a total of approximately 12.5 hours.

Radiopharmaceutical Outsourcing and Repackaging Guidance

We estimate a total of 2 outsourcing facilities annually will each design, test, and produce an average of 5 different labels for a total of 10 labels, as described in the guidance (including

directions for use). We assume that designing, testing, and producing each label will take 30 minutes (0.5 hours) for each repackaged radiopharmaceutical, for a total of 5 hours. We consider that the provision to include ''*https://www.fda.gov/medwatch*'' and ''1–800–FDA–1088'' is not a collection of information as defined in 5 CFR 1320.3(c)(2) and is therefore exempt from OMB review and approval under the PRA.

Repackaging Guidance

Based on current data for outsourcing facilities, we estimate 6 outsourcing facilities annually will submit an initial report identifying all drugs repackaged in the facility in the previous year. For the purposes of this estimate, each product's structured product labeling (SPL) submission is considered a separate response and therefore each facility's product report will include multiple responses. Taking into account that a particular product that is repackaged may come in different strengths and can be reported in a single SPL response, we estimate that each facility will average approximately 6 products.

Similarly, we estimate that 6 outsourcing facilities will submit an initial report identifying all drugs repackaged in the facility in the past year. Taking into account that a particular product that is repackaged may come in different strengths and can be reported in a single SPL response, we assume that each facility will average 6 products. Our estimate is based on current product reporting data. We expect that each product report will consist of multiple SPL responses per facility and assume preparing and electronically submitting this information will take up to 2 hours for each initial SPL response.

We also estimate 3 registered outsourcing facilities will submit a report twice each year (June and December) that identifies all drugs repackaged at the facility in the previous 6 months. We also estimate that an average of 3 facilities will prepare and submit 3 SPL responses and assume that preparing and submitting this information electronically will take 2 hours per response. If a product was not repackaged during a particular reporting period, outsourcing facilities do not need to send an SPL response for that product during that reporting period. We expect to receive no waiver requests from the electronic submission process for initial product reports and semiannual reports.

Biologics Guidance

We estimate 15 outsourcing facilities annually who mix, dilute, or repackage biological products will each design, test, and produce 5 different labels, for a total of 75 labels that include the information set forth in section III.B—''Mixing, Diluting, or Repackaging Licensed Biological Products'' of the guidance (including directions for use) as well as inclusion of storage instructions, handling instructions, or both. We assume that designing, testing, and producing each label will take 30 minutes (0.5 hours). We consider that the provision to include ''*https://www.fda.gov/medwatch*'' and ''1–800–FDA–1088'' is not a collection of information as defined in 5 CFR 1320.3(c)(2) and is therefore exempt from OMB review and approval under the PRA.

We estimate that annually a total of 5 outsourcing facilities who prepare prescription sets will each include on the labels, packages, and/or containers of approximately 300 prescription sets the information set forth in section III.C ''Licensed Allergenic Extracts for Subcutaneous Immunotherapy'' of the draft guidance (including directions for use), for a total of 1,500 disclosures. We assume the initial process of designing, testing, and producing labeling and attaching to each prescription set each label, package, and/or container will take approximately 30 minutes (0.5 hours), for a total of approximately 750 hours.

Finally, we estimate that annually five outsourcing facilities who repackage biological products and establish a BUD in accordance with Appendix A—''Assigning a BUD for Repackaged Biological Products Based On Stability Testing'' will maintain 150 records of the testing, as described in Appendix A of the guidance. We assume maintaining the records will take 5 minutes per record, for a total of 12.5 hours.

Our estimated burden for the information collection reflects program changes and adjustments. We are changing the scope of the information collection to include burden attendant to provisions found in the Agency guidance documents discussed in this notice and have adjusted our estimate to reflect a resulting increase of 955 hours and 1,873 responses annually.

Dated: April 20, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–08943 Filed 4–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2004–N–0451]

Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 055

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a publication containing modifications the Agency is making to the list of standards FDA recognizes for use in premarket reviews (FDA Recognized Consensus Standards). This publication, entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 055'' (Recognition List Number: 055), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices.

DATES: Submit either electronic or written comments on the notice at any time. These modifications to the list of recognized standards are applicable April 29, 2021.

ADDRESSES: You may submit comments on the current list of FDA Recognized Consensus Standards at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a

written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2004–N–0451 for ''Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 055.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500. FDA will consider any comments received in determining whether to amend the current listing of modifications to the list of recognized standards, Recognition List Number: 055.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

An electronic copy of Recognition List Number: 055 is available on the internet at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.* See section IV for electronic access to the searchable database for the current list of FDA recognized consensus standards, including Recognition List Number: 055 modifications and other standards related information. Submit written requests for a single hard copy of the document entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 055'' to Scott Colburn, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5606, Silver Spring, MD 20993, 301–796–6287. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8144.

FOR FURTHER INFORMATION CONTACT: Scott Colburn, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5606, Silver Spring, MD 20993, 301–796–6287, *CDRHStandardsStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) amended section 514 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions or other requirements.

In the **Federal Register** of September 14, 2018 (83 FR 46738), FDA announced the availability of a guidance entitled ''Appropriate Use of Voluntary Consensus Standards in Premarket Submissions for Medical Devices.'' The guidance describes how FDA has implemented its standards recognition program and is available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/appropriate-use-voluntary-consensus-standards-premarket-submissions-medical-devices.* Modifications to the initial list of recognized standards, as published in the **Federal Register**, can be accessed at *https://www.fda.gov/medical-devices/standards-and-conformity-assessment-program/federal-register-documents.*

These notices describe the addition, withdrawal, and revision of certain standards recognized by FDA. The Agency maintains on its website hypertext markup language (HTML) and portable document format (PDF) versions of the list of FDA Recognized Consensus Standards, available at *https://www.fda.gov/medical-devices/standards-and-conformity-assessment-program/federal-register-documents.* Additional information on the Agency's Standards and Conformity Assessment Program is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/standards-and-conformity-assessment-program.*

II. Modifications to the List of Recognized Standards, Recognition List Number: 055

FDA is announcing the addition, withdrawal, correction, and revision of certain consensus standards the Agency is recognizing for use in premarket submissions and other requirements for devices. FDA is incorporating these modifications to the list of FDA Recognized Consensus Standards in the Agency's searchable database. FDA is using the term ''Recognition List Number: 055'' to identify the current modifications.

In table 1, FDA describes the following modifications: (1) The withdrawal of standards and their replacement by others, if applicable; (2) the correction of errors made by FDA in listing previously recognized standards; and (3) the changes to the supplementary information sheets of recognized standards that describe revisions to the applicability of the standards.

In section III, FDA lists modifications the Agency is making that involve new entries and consensus standards added as modifications to the list of recognized standards under Recognition List Number: 055.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
A. Anesthesiology			
1–79	1–147	ISO 26825 Second edition 2020–10 Anaesthetic and respiratory equipment—User-applied labels for syringes containing drugs used during anaesthesia—Colours, design and performance.	Withdrawn and replaced with newer version.
1–102	1–148	ISO 80601–2–69 Second edition 2020–11 Medical electrical equipment—Part 2–69: Particular requirements for the basic safety and essential performance of oxygen concentrator equipment.	Withdrawn and replaced with newer version.
1–123	1–149	ISO 7376 Third edition 2020–08 Anaesthetic and respiratory equipment—Laryngoscopes for tracheal intubation.	Withdrawn and replaced with newer version.
1–125	1–150	ISO 8836 Fifth edition 2019–12 Suction catheters for use in the respiratory tract.	Withdrawn and replaced with newer version.
1–146		ISO 80601–2–12 Second edition 2020–02 Medical electrical equipment—Part 2–12: Particular requirements for basic safety and essential performance of critical care ventilators.	Transition period extended.
B. Biocompatibility			
2–119	2–277	ASTM F813–20 Standard Practice for Direct Contact Cell Culture Evaluation of Materials for Medical Devices.	Withdrawn and replaced with newer version.
2–122	2–278	ASTM F719–20 ε1 Standard Practice for Testing Materials in Rabbits for Primary Skin Irritation.	Withdrawn and replaced with newer version.
2–124	2–279	ASTM F750–20 Standard Practice for Evaluating Acute Systemic Toxicity of Material Extracts by Systemic Injection in the Mouse.	Withdrawn and replaced with newer version.
2–133	2–280	ASTM F1408–20a Standard Practice for Subcutaneous Screening Test for Implant Materials.	Withdrawn and replaced with newer version.
2–167	2–281	ISO 10993–19 Second edition 2020–03 Biological evaluation of medical devices—Part 19: Physico-chemical, morphological and topographical characterization of materials.	Withdrawn and replaced with newer version.
2–205	2–282	ISO 14155 Third edition 2020–07 Clinical investigation of medical devices for human subjects—Good clinical practice.	Withdrawn and replaced with newer version.
2–214	2–283	ASTM F619–20 Standard Practice for Extraction of Materials Used in Medical Devices.	Withdrawn and replaced with newer version.
2–269	2–284	USP 43–NF38:2020 <87> Biological Reactivity Test, In Vitro—Direct Contact Test.	Withdrawn and replaced with newer version.
2–270	2–285	USP 43–NF38:2020 <87> Biological Reactivity Test, In Vitro—Elution Test.	Withdrawn and replaced with newer version.
2–271	2–286	USP 43–NF38:2020 <88> Biological Reactivity Tests, In Vivo	Withdrawn and replaced with newer version.
2–272	2–287	USP 43–NF38:2020 <151> Pyrogen Test (USP Rabbit Test)	Withdrawn and replaced with newer version.
C. Cardiovascular			
No new entries at this time.			
D. Dental/Ear, Nose, and Throat (ENT)			
4–92	4–264	ANSI/ADA Standard No. 88—2019 Dental Brazing Alloys	Withdrawn and replaced with newer version.
4–243		ISO 10271 First edition 2001–06 Dental metallic materials—Corrosion test methods.	Withdrawn.
4–245	4–265	ISO 10271 Third edition 2020–08 Dentistry—Corrosion test methods for metallic materials.	Withdrawn and replaced with newer version.
E. General I (Quality Systems/Risk Management) (QS/RM)			
5–76	5–131	IEC 60601–1–8 Edition 2.2 2020–07 CONSOLIDATED VERSION Medical electrical equipment—Part 1–8: General requirements for basic safety and essential performance—Collateral standard: General requirements, tests and guidance for alarm systems in medical electrical equipment and medical electrical systems.	Withdrawn and replaced with newer version.
5–89	5–132	IEC 60601–1–6 Edition 3.2 2020–07 CONSOLIDATED VERSION Medical electrical equipment—Part 1–6: General requirements for basic safety and essential performance—Collateral standard: Usability.	Withdrawn and replaced with newer version.
5–115	5–133	ISO 80369–7 Second edition 2021 Small-bore connectors for liquids and gases in healthcare applications—Part 7: Connectors for intravascular or hypodermic applications.	Withdrawn and replaced with newer version.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS—Continued

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
F. General II (Electrical Safety/Electromagnetic Compatibility) (ES/EMC)			
19–8	19–36	IEC 60601–1–2 Edition 4.1 2020–09 CONSOLIDATED VERSION Medical electrical equipment—Part 1–2: General requirements for basic safety and essential performance—Collateral Standard: Electromagnetic disturbances—Requirements and tests.	Withdrawn and replaced with newer version.
19–9	19–37	IEC 60601–1–10 Edition 1.2 2020–07 CONSOLIDATED VERSION Medical electrical equipment—Part 1–10: General requirements for basic safety and essential performance—Collateral Standard: Requirements for the development of physiologic closed-loop controllers.	Withdrawn and replaced with newer version.
19–14	19–38	IEC 60601–1–11 Edition 2.1 2020–07 CONSOLIDATED VERSION Medical electrical equipment—Part 1–11: General requirements for basic safety and essential performance—Collateral Standard: Requirements for medical electrical equipment and medical electrical systems used in the home healthcare environment.	Withdrawn and replaced with newer version.
19–15	19–39	IEC 60601–1–12 Edition 1.1 2020–07 CONSOLIDATED VERSION Medical electrical equipment—Part 1–12: General requirements for basic safety and essential performance—Collateral Standard: Requirements for medical electrical equipment and medical electrical systems intended for use in the emergency medical services environment.	Withdrawn and replaced with newer version.
G. General Hospital/General Plastic Surgery (GH/GPS)			
6–11		ISO 594–1 First edition 1986–06–15 Conical fittings with a 6% (Luer) taper for syringes, needles and certain other medical equipment—Part 1: General requirements.	Withdrawn. See 5–133.
6–129		ISO 594–2 Second edition 1998–09–01 Conical fittings with a 6% (Luer) taper for syringes, needles and certain other medical equipment—Part 2: Lock fittings.	Withdrawn. See 5–133.
6–180	6–448	ASTM F2407–20 Standard Specification for Surgical Gowns Intended for Use in Healthcare Facilities.	Withdrawn and replaced with newer version.
6–339	6–449	ASTM F1169–19 Standard Consumer Safety Specification for Full-Size Baby Cribs.	Withdrawn and replaced with newer version.
6–340		ASTM F2710–13 Standard Consumer Safety Performance Specification for Commercial Cribs.	Withdrawn.
6–387	6–450	IEC 60601–2–50 Ed. 3.0 2020–09 Medical electrical equipment—Part 2–50: Particular requirements for the basic safety and essential performance of infant phototherapy equipment.	Withdrawn and replaced with newer version.
6–428	6–451	USP 43–NF38:2020 Sodium Chloride Irrigation	Withdrawn and replaced with newer version.
6–429	6–452	USP 43–NF38:2020 Sodium Chloride Injection	Withdrawn and replaced with newer version.
6–430	6–453	USP 43–NF38:2020 Nonabsorbable Surgical Suture	Withdrawn and replaced with newer version.
6–431	6–454	USP 43–NF38:2020 <881> Tensile Strength	Withdrawn and replaced with newer version.
6–432	6–455	USP 43–NF38:2020 <861> Sutures—Diameter	Withdrawn and replaced with newer version.
6–433	6–456	USP 43–NF38:2020 <871> Sutures—Needle Attachment	Withdrawn and replaced with newer version.
6–434	6–457	USP 43–NF38:2020 Sterile Water for Irrigation	Withdrawn and replaced with newer version.
6–435	6–458	USP 43–NF38:2020 Heparin Lock Flush Solution	Withdrawn and replaced with newer version.
6–436	6–459	USP 43–NF38:2020 Absorbable Surgical Suture	Withdrawn and replaced with newer version.
H. In Vitro Diagnostics (IVD)			
7–101		CLSI H51–A Assays of von Willebrand Factor Antigen and Ristocetin Cofactor Activity; Approved Guideline.	Withdrawn.
7–112	7–299	CLSI POCT14 2nd Edition Point-of-Care Coagulation Testing and Anticoagulation Monitoring.	Withdrawn and replaced with newer version.
7–131		CLSI I/LA18–A2 (Replaces I/LA18–A) Specifications for Immunological Testing for Infectious Diseases; Approved Guideline—Second Edition.	Withdrawn.
7–135		CLSI H44–A2 (Replaces H44–A) Methods for Reticulocyte Counting (Automated Blood Cell Counters, Flow Cytometry, and Supravital Dyes); Approved Guideline—Second Edition.	Withdrawn.
7–142		CLSI GP43–A4 (Formerly H11–A4) Procedures for the Collection of Arterial Blood Specimens; Approved Standard—Fourth Edition.	Withdrawn.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS—Continued

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
7–146		CLSI M06–A2 Protocols for Evaluating Dehydrated Mueller-Hinton Agar; Approved Standard—Second Edition.	Withdrawn.
7–164		CLSI GP28–A (Replaces GP28–P) Microwave Device Use in the Histology Laboratory; Approved Guideline.	Withdrawn.
7–173		CLSI C44–A (Replaces C44–P) Harmonization of Glycohemoglobin Measurements; Approved Guideline.	Withdrawn.
7–191	7–300	CLSI MM13 2nd Edition Collection, Transport, Preparation, and Storage of Specimens for Molecular Methods.	Withdrawn and replaced with newer version.
7–203	7–301	CLSI GP42 7th Edition Collection of Capillary Blood Specimens	Withdrawn and replaced with newer version.
7–211	7–302	CLSI C34 4th Edition Sweat Testing: Specimen Collection and Quantitative Chloride Analysis.	Withdrawn and replaced with newer version.
7–217	7–303	CLSI M60 2nd Edition Performance Standards for Antifungal Susceptibility Testing of Yeast.	Withdrawn and replaced with newer version.
7–261	7–304	CLSI M23 5th Edition Development of In Vitro Susceptibility Testing Criteria and Quality Control Parameters.	Withdrawn and replaced with newer version.
I. Materials			
8–217	8–537	ASTM F620–20 Standard Specification for Titanium Alloy Forgings for Surgical Implants in the Alpha Plus Beta Condition.	Withdrawn and replaced with newer version.
8–223	8–538	ASTM F2759–19 Standard Guide for Assessment of the Ultra-High Molecular Weight Polyethylene (UHMWPE) Used in Orthopedic and Spinal Devices.	Withdrawn and replaced with newer version.
8–338	8–539	ASTM F139–19 Standard Specification for Wrought 18Chromium-14Nickel-2.5Molybdenum Stainless Steel Sheet and Strip for Surgical Implants (UNS S31673).	Withdrawn and replaced with newer version.
8–339	8–540	ASTM F1091–20 Standard Specification for Wrought Cobalt-20Chromium-15Tungsten-10Nickel Alloy Surgical Fixation Wire (UNS R30605).	Withdrawn and replaced with newer version.
8–342	8–541	ASTM F1537–20 Standard Specification for Wrought Cobalt-28Chromium-6Molybdenum Alloys for Surgical Implants (UNS R31537, UNS R31538, and UNS R31539).	Withdrawn and replaced with newer version.
8–348	8–542	ASTM F138–19 Standard Specification for Wrought 18Chromium-14Nickel-2.5Molybdenum Stainless Steel Bar and Wire for Surgical Implants (UNS S31673).	Withdrawn and replaced with newer version.
8–361	8–543	ASTM F755–19 Standard Specification for Selection of Porous Polyethylene for Use in Surgical Implants.	Withdrawn and replaced with newer version.
8–395	8–544	ASTM F961–20 Standard Specification for 35Cobalt-35Nickel-20Chromium-10Molybdenum Alloy Forgings for Surgical Implants (UNS R30035).	Withdrawn and replaced with newer version.
8–416	8–545	ASTM F2977–20 Standard Test Method for Small Punch Testing of Polymeric Biomaterials Used in Surgical Implants.	Withdrawn and replaced with newer version.
8–417	8–546	ASTM F3044–20 Standard Test Method for Evaluating the Potential for Galvanic Corrosion for Medical Implants.	Withdrawn and replaced with newer version.
8–421	8–547	ASTM F629–20 Standard Practice for Radiography of Cast Metallic Surgical Implants.	Withdrawn and replaced with newer version.
8–438	8–548	ISO/ASTM 52915 Third edition 2020–03 Specification for additive manufacturing file format (AMF) Version 1.2.	Withdrawn and replaced with newer version.
8–530	8–549	ASTM F3208–20 Standard Guide for Selecting Test Soils for Validation of Cleaning Methods for Reusable Medical Devices.	Withdrawn and replaced with newer version.
J. Nanotechnology			
No new entries at this time.			
K. Neurology			
No new entries at this time.			
L. Obstetrics-Gynecology/Gastroenterology/Urology (OB-Gyn/G/Urology)			
9–40	9–130	ISO 8600–6: Second Edition 2020–09 Endoscopes—Medical endoscopes and endotherapy devices—Part 6: Vocabulary.	Withdrawn and replaced with newer version.
M. Ophthalmic			
10–48	10–119	ISO 11979–5 Third edition 2020–09 Ophthalmic implants—Intraocular Lenses—Part 5: Biocompatibility.	Withdrawn and replaced with newer version.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS—Continued

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
10–63	10–120	ISO/TR 22979 Second Edition 2017–05 Ophthalmic implants—Intraocular Lenses—Guidance on assessment of the need for clinical investigation of intraocular lens design modifications.	Withdrawn and replaced with newer version.
N. Orthopedic			
11–191	11–370	ISO 14879–1 Second edition 2020–07 Implants for surgery—Total knee-joint prostheses—Part 1: Determination of endurance properties of knee tibial trays.	Withdrawn and replaced with newer version.
11–267	11–371	ASTM F2009–20 Standard Test Method for Determining the Axial Disassembly Force of Taper Connections of Modular Prostheses.	Withdrawn and replaced with newer version.
11–279	11–372	ASTM F2996–20 Standard Practice for Finite Element Analysis (FEA) of Non-Modular Metallic Orthopaedic Hip Femoral Stems.	Withdrawn and replaced with newer version.
11–282	11–373	ASTM F1223–20 Standard Test Method for Determination of Total Knee Replacement Constraint.	Withdrawn and replaced with newer version.
11–313	11–374	ISO 7207–2 Second edition 2011–07–01 Implants for surgery—Components for partial and total knee joint prostheses—Part 2: Articulating surfaces made of metal, ceramic and plastics materials [Including AMENDMENT 1 (2016) and AMENDMENT 2 (2020)].	Withdrawn and replaced with newer version.
11–330		ASTM F2028–17 Standard Test Methods for Dynamic Evaluation of Glenoid Loosening or Disassociation.	Extent of recognition.
11–332	11–375	ASTM F2193–20 Standard Specifications and Test Methods for Components Used in the Surgical Fixation of the Spinal Skeletal System.	Withdrawn and replaced with newer version.
O. Physical Medicine			
No new entries at this time.			
P. Radiology			
No new entries at this time.			
Q. Software/Informatics			
No new entries at this time.			
R. Sterility			
14–314	14–550	ANSI/AAMI ST67:2019 Sterilization of health care products—Requirements and guidance for selecting a sterility assurance level (SAL) for products labeled "sterile".	Withdrawn and replaced with newer version.
14–361	14–551	ISO 14160 Third edition 2020–09 Sterilization of health care products—Liquid chemical sterilizing agents for single-use medical devices utilizing animal tissues and their derivatives—Requirements for characterization, development, validation and routine control of a sterilization process for medical devices.	Withdrawn and replaced with newer version.
14–411	14–552	ISO/ASTM 51818 Fourth edition 2020–06 Practice for dosimetry in an electron beam facility for radiation processing at energies between 80 and 300 keV.	Withdrawn and replaced with newer version.
14–498	14–553	ASTM F2097–20 Standard Guide for Design and Evaluation of Primary Flexible Packaging for Medical Products.	Withdrawn and replaced with newer version.
14–519	14–554	ASTM F17–20 Standard Terminology Relating to Primary Barrier Packaging.	Withdrawn and replaced with newer version.
14–534	14–555	USP 43–NF38:2020 <161≤ Medical Devices-Bacterial Endotoxin and Pyrogen Tests.	Withdrawn and replaced with newer version.
14–535	14–556	USP 43–NF38:2020 <62≤ Microbiological Examination of Nonsterile Products: Tests for Specified Microorganisms.	Withdrawn and replaced with newer version.
14–536	14–557	USP 43–NF38:2020 <55≤ Biological Indicators—Resistance Performance Tests.	Withdrawn and replaced with newer version.
14–537	14–558	USP 43–NF38:2020 <1229.5≤ Biological Indicators for Sterilization	Withdrawn and replaced with newer version.
14–546	14–559	USP 43–NF38:2020 <61≤ Microbiological Examination of Nonsterile Products: Microbial Enumeration Tests.	Withdrawn and replaced with newer version.
14–547	14–560	USP 43–NF38:2020 <71≤ Sterility Tests	Withdrawn and replaced with newer version.
14–548	14–561	USP 43–NF38:2020 <85≤ Bacterial Endotoxins Test	Withdrawn and replaced with newer version.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS—Continued

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
S. Tissue Engineering			
15–35		ASTM F2900–11 Standard Guide for Characterization of Hydrogels used in Regenerative Medicine.	Withdrawn.
15–36		ASTM F2383–11 Standard Guide for Assessment of Adventitious Agents in Tissue Engineered Medical Products (TEMPs).	Withdrawn.
15–38		ASTM F2883–11 Standard Guide for Characterization of Ceramic and Mineral Based Scaffolds used for Tissue-Engineered Medical Products (TEMPs) and as Device for Surgical Implant Applications.	Withdrawn.
15–45	15–64	ISO 22442–1 Third edition 2020–09 Medical devices utilizing animal tissues and their derivatives—Part 1: Application of risk management.	Withdrawn and replaced with newer version.
15–46	15–65	ISO 22442–2 Third edition 2020–09 Medical devices utilizing animal tissues and their derivatives—Part 2: Controls on sourcing, collection and handling.	Withdrawn and replaced with newer version.

[1] All standard titles in this table conform to the style requirements of the respective organizations.

III. Listing of New Entries

In table 2, FDA provides the listing of new entries and consensus standards added as modifications to the list of recognized standards under Recognition List Number: 055. These entries are of standards not previously recognized by FDA.

TABLE 2—NEW ENTRIES TO THE LIST OF RECOGNIZED STANDARDS

Recognition No.	Title of standard [1]	Reference No. and date
A. Anesthesiology		
No new entries at this time.		
B. Biocompatibility		
2–288	Biological evaluation of medical devices—Part 15: Identification and quantification of degradation products from metals and alloys.	ISO 10993–15 Second edition 2019–11.
C. Cardiovascular		
3–169	Medical electrical equipment—Part 2–4: Particular requirements for the basic safety and essential performance of cardiac defibrillators.	IEC Edition 3.1 2018–02 CONSOLIDATED VERSION.
D. Dental/Ear, Nose, and Throat (ENT)		
4–266	Dentistry—Orthodontic anchor screws	ISO 19023 First edition 2018–02.
4–267	Dentistry—Elastomeric auxiliaries for use in orthodontics	ISO 21606 First edition 2007–06.
4–268	Dentistry—Wires for use in orthodontics [Including AMENDMENT 1 (2020)]	ISO 15841 Second edition 2014–08.
4–269	Dentistry—Coupling dimensions for handpiece connectors [Including AMENDMENT 1 (2018)].	ISO 3964 Third edition 11–2016.
4–270	CAD/CAM Abutments in Dentistry	ADA Technical Report No. 146–2018.
4–271	Dental Cartridge Syringes	ANSI/ADA Standard No. 34–2013.
4–272	Root Canal Barbed Broaches and Rasps.	ANSI/ADA Standard No. 63–2013.
E. General I (Quality Systems/Risk Management) (QS/RM)		
No new entries at this time.		
F. General II (Electrical Safety/Electromagnetic Compatibility) (ES/EMC)		
No new entries at this time.		
G. General Hospital/General Plastic Surgery (GH/GPS)		
No new entries at this time.		
H. In Vitro Diagnostics (IVD)		
7–305	In vitro diagnostic medical devices—Requirements for establishing metrological traceability of values assigned to calibrators, trueness control materials and human samples..	ISO 17511 Second edition 2020–04.

TABLE 2—NEW ENTRIES TO THE LIST OF RECOGNIZED STANDARDS—Continued

Recognition No.	Title of standard [1]	Reference No. and date
I. Materials		
8–550	Standard Specification for Wrought Seamless Stainless Steel Tubing for Surgical Implants.	ASTM F2181–20.
8–551	Standard Practice for Digital Radiography of Cast Metallic Implants	ASTM F2895–20.
8–552	Guide for Additive manufacturing—Installation/Operation and Performance Qualification (IQ/OQ/PQ) of Laser-Beam Powder Bed Fusion Equipment for Production Manufacturing New publication.	ASTM F3434–20.
8–553	Additive manufacturing—Material extrusion-based additive manufacturing of plastic materials—Part 1: Feedstock materials.	ISO/ASTM 52903–1 First edition 2020–04.
8–554	Additive manufacturing—Design—Functionally graded additive manufacturing	ISO/ASTM TR 52912 First edition 2020–09.
J. Nanotechnology		
18–17	Nanotechnologies—Measurements of particle size and shape distributions by transmission electron microscopy.	ISO 21363 First edition 2020–06.
18–18	Standard Test Method for Measuring the Size of Nanoparticles in Aqueous Media Using Dynamic Light Scattering.	ASTM E3247–20.
K. Neurology		
17–17	Standard Specification for Neurosurgical Head Holder Devices	ASTM F3395/F3395M–19.
L. Obstetrics-Gynecology/Gastroenterology/Urology (OB-Gyn/G/Urology)		
No new entries at this time.		
M. Ophthalmic		
10–121	Ophthalmic implants—Ocular endotamponades	ISO 16672 Third edition 2020–06.
N. Orthopedic		
No new entries at this time.		
O. Physical Medicine		
16–230	American National Standard for Wheelchairs—Volume 2: Additional Requirements for Wheelchairs (including Scooters) with Electrical Systems Section 25: Batteries and Chargers for Powered Wheelchairs.	ANSI/RESNA WC–2:2019 Section 25.
P. Radiology		
No new entries at this time.		
Q. Software/Informatics		
13–116	Common Vulnerability Scoring System version 3.0	FIRST CVSS v3.0.
R. Sterility		
No new entries at this time.		
S. Tissue Engineering		
No new entries at this time.		

[1] All standard titles in this table conform to the style requirements of the respective organizations.

IV. List of Recognized Standards

IV. List of Recognized Standards

FDA maintains the current list of FDA Recognized Consensus Standards in a searchable database that may be accessed at *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm.* Such standards are those that FDA has recognized by notice published in the **Federal Register** or that FDA has decided to recognize but for which recognition is pending (because a periodic notice has not yet appeared in the **Federal Register**). FDA will announce additional modifications and revisions to the list of recognized consensus standards, as needed, in the **Federal Register** once a year, or more often if necessary.

V. Recommendation of Standards for Recognition by FDA

Any person may recommend consensus standards as candidates for recognition under section 514 of the FD&C Act by submitting such recommendations, with reasons for the

recommendation, to *CDRHStandardsStaff@fda.hhs.gov.* To be considered, such recommendations should contain, at a minimum, the information available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/standards-and-conformity-assessment-program#process.*

Dated: April 23, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–08992 Filed 4–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0363]

Agency Information Collection Activities; Proposed Collection; Comment Request; Prescription Drug Advertising

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with prescription drug advertising.

DATES: Submit either electronic or written comments on the collection of information by June 28, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 28, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 28, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–N–0363 for ''Prescription Drug Advertising.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice

of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Prescription Drug Advertising—21 CFR Part 202

OMB Control Number 0910–0686—Extension

This information collection supports Agency regulations and associated guidance. The Food and Drug Administration (FDA) protects the public health by assuring the safety, effectiveness, and security of a wide range of products. We also help consumers get accurate, science-based information they need to use medicines appropriately and improve their health. Section 301 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 331) prohibits the misbranding of FDA-regulated products, including prescription drugs. Section 502 of the FD&C Act (21 U.S.C. 352) requires that manufacturers, packers, and distributors, or anyone acting on their behalf (firms) include certain information in human prescription drug promotional labeling and advertisements.

Our prescription drug advertising regulations in part 202 (21 CFR part 202) describe requirements and standards for print and broadcast advertisements. Section 202.1 applies to advertisements published in journals, magazines, other periodicals, and newspapers, and advertisements broadcast through media such as radio, television, and telephone communication systems. Print advertisements must include a brief summary of each of the risk concepts from the product's approved package labeling (§ 202.1(e)(1)). Advertisements that are broadcast through media such as television, radio, or telephone communications systems must disclose the major risks from the product's package labeling in either the audio or audio and visual parts of the presentation (§ 202.1(e)(1)); this disclosure is known as the ''major statement.'' If a broadcast advertisement omits the major statement, or if the major statement minimizes the risks associated with the use of the drug, the advertisement could render the drug misbranded in violation of the FD&C Act (21 U.S.C. 352(n) and section 201 of the FD&C Act (21 U.S.C. 321(n)), and FDA's implementing regulations at § 202.1(e).

Section 202.1(e)(6) provides for certain waivers. The waiver request must set forth clearly and concisely the petitioner's interest in the advertisement, the specific provision of § 202.1(e)(6) from which a waiver is sought, a complete copy of the advertisement, and a showing that the advertisement is not false, lacking in fair balance or otherwise misleading, or otherwise violative of section 502(n) of the FD&C Act.

Under § 202.1(j)(1), a sponsor must submit advertisements to FDA for prior approval before dissemination if: (1) The sponsor or FDA has received information that has not been widely publicized in medical literature that the use of the drug may cause fatalities or serious damage; (2) FDA has notified the sponsor that the information must be part of the advertisements for the drug; and (3) the sponsor has failed to present to FDA a program for assuring that such information will be publicized promptly and adequately to the medical profession in subsequent advertisements, or if such a program has been presented to FDA but is not being followed by the sponsor.

Under § 202.1(j)(1)(iii), a sponsor must provide to FDA a program for assuring that significant new adverse information about the drug that becomes known (*i.e.,* use of drug may cause fatalities or serious damage) will be publicized promptly and adequately to the medical profession in any subsequent advertisements. Under § 202.1(j)(4), a sponsor may voluntarily submit advertisements to FDA for comment prior to publication.

While the regulations establish requirements for prescription drug advertisements, we have developed the guidance document entitled, ''Product Name Placement, Size, and Prominence in Promotional Labeling and Advertisements; Guidance for Industry'' to clarify requirements for product name placement, size, prominence, and frequency in promotional labeling and advertisements for human and animal prescription drugs and prescription biological products. The guidance includes recommendations that pertain to traditional print promotional labeling and advertisements (*e.g.,* journal ads, detail aids, brochures), audiovisual promotional labeling (*e.g.,* videos shown in a health care provider's office), broadcast advertisements (*e.g.,* television advertisements, radio advertisements), and electronic and computer-based promotions (*e.g.,* internet, social media, emails, CD–ROMs, DVDs). The guidance document was issued consistent with our Good Guidance Practice regulations in part 10.115 which provide for public comment at any time, and is available from our website at: *https://www.fda.gov/media/87202/download.*

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
CDER Regulated Products:					
202.1(e)(6); waiver request	1	1	1	12	12
202.1(j)(1); submission of advertisement	1	1	1	2	2
202.1(j)(1)(iii); assuring that adverse information be publicized	1	1	1	12	12
202.1(j)(4); voluntary submission of ad to FDA	59	1.85	109	20	2,180
CBER Regulated Products:					
202.1(e)(6); waiver request	1	1	1	12	12
202.1(j)(1); submission of advertisement	1	1	1	2	2

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
202.1(j)(1)(iii); assuring that adverse information be publicized	1	1	1	12	12
202.1(j)(4); voluntary submission of ad to FDA	7	2.57	18	20	360
CVM Regulated Products:					
202.1(e)(6); waiver request	1	1	1	12	12
202.1(j)(1); submission of advertisement	1	1	1	2	2
202.1(j)(1)(iii); assuring that adverse information be publicized	1	1	1	12	12
202.1(j)(4); voluntary submission of ad to FDA	7	1	7	20	140
Total			143		2,758

[1] There are no capital costs or operating and maintenance costs associated with this collection.

Our estimate of burden we attribute to the reporting provisions in part 202 is based on our experience with the collection and a review of Agency data.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1] [2]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Burden per disclosure	Total hours
202.1; ad prepared in accordance with part 202	670	111.08	74,425	400	29,770,000
202.1(j)(1); info. included re. fatalities or serious damage	1	1	1	40	40
Total			74,426		29,770,040

[1] There are no capital costs or operating and maintenance costs associated with this collection.
[2] Numbers rounded to the nearest one/one-hundredth.

Under § 202.1, advertisements for human and animal prescription drug and biological products must comply with the standards described in that section. Under § 202.1(j)(1), if information that the use of a prescription drug may cause fatalities or serious damage has not been widely publicized in the medical literature, a sponsor must include such information in the advertisements for that drug. Based on a review of Agency data we estimate an average of 29,770,040 hours is incurred annually by respondents in complying with third-party disclosure requirements for prescription drug advertising. We assume a placeholder of 1 for disclosures under § 202.1(j)(1).

TABLE 3—ESTIMATED ANNUAL DISCLOSURE BURDEN DISCUSSED IN AGENCY GUIDANCE

Information collection recommendations	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure (in hours)	Total hours
Product name placement, size, and prominence in promotional labeling and advertisements' disclosures	715	190.3	136,069	3	408,207

The placement, size, prominence, and frequency of the proprietary and established names for human prescription drugs, including prescription biological products, and animal prescription drugs are specified in labeling and advertising regulations (§§ 201.10(g) and (h); 202.1(b), (c), and (d)). Based on Agency data, we estimate that, for human and animal prescription drugs and prescription biological products, an average of 715 firms disseminate approximately 136,069 advertisements and promotional pieces each year. We assume that the burden associated with complying with the regulatory requirements discussed in the guidance would be approximately 3 hours per response.

We have adjusted our estimate upward by 11,705,225 hours annually to reflect increases in prescription drug advertisements and associated disclosures.

Dated: April 22, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–08948 Filed 4–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0073]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit written comments (including recommendations) on the collection of information by June 1, 2021.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0186. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Irradiation in the Production, Processing, and Handling of Food

OMB Control Number 0910–0186—Extension

This information collection supports FDA regulations. Specifically, under sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321(s) and 348), food irradiation is subject to regulation under the food additive premarket approval provisions of the FD&C Act. The regulations providing for uses of irradiation in the production, processing, and handling of food are found in part 179 (21 CFR part 179). To ensure safe use of a radiation source used to treat food, § 179.21(b)(1) (21 CFR 179.21(b)(1)) requires that the label of the radiation sources bear appropriate and accurate information identifying the source of radiation and the maximum (or minimum and maximum) energy of the emitted radiation. Section 179.21(b)(2) requires that the label or accompanying labeling bear adequate directions for installation and use and a statement supplied by us that indicates maximum dose of radiation allowed. Section 179.26(c) (21 CFR 179.26(c)) requires that the label or accompanying labeling of foods treated by a source of radiation bear a logo and a radiation disclosure statement.

Section 179.25(e) (21 CFR 179.25(e)) requires that food processors who treat food with radiation make and retain, for 1 year past the expected shelf life of the products up to a maximum of 3 years, specified records relating to the irradiation process (*e.g.,* the food treated, lot identification, scheduled process, etc.). The records required by § 179.25(e) are used by our inspectors to assess compliance with the regulation that establishes limits within which radiation may be safely used to treat food. We cannot ensure safe use without a method to assess compliance with the dose limits, and there are no practicable methods for analyzing most foods to determine whether they have been treated with ionizing radiation and are within the limitations set forth in part 179. Records inspection is the only way to determine whether firms are complying with the regulations for treatment of foods with ionizing radiation.

Description of Respondents: Respondents to the information collection are businesses engaged in the irradiation of food.

In the **Federal Register** of October 16, 2020 (85 FR 65825), we published a 60-day notice requesting public comment on the proposed collection of information. Although three comments were received, none pertained to the information collection topics solicited in the notice or suggested a change to our burden estimate.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
179.25(e), large processors	4	300	1,200	1	1,200
179.25(e), small processors	4	30	120	1	120
Total					1,320

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate. Our estimate of the recordkeeping burden under § 179.25(e) is based on our experience regulating the safe use of radiation as a direct food additive. The number of firms who process food using irradiation is extremely limited. We estimate that there are four irradiation plants whose business is devoted primarily (*i.e.,* approximately 100 percent) to irradiation of food and other agricultural products. Four other firms also irradiate small quantities of food. We estimate that this irradiation accounts for no more than 10 percent of the business for each of these firms. Therefore, the average estimated burden is based on four facilities devoting 100 percent of their business to food irradiation, and four facilities devoting 10 percent of their business to food irradiation.

No burden has been estimated for the labeling requirements in §§ 179.21(b)(1), 179.21(b)(2), and 179.26(c) because the disclosures are supplied by FDA. Under 5 CFR 1320.3(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not subject to review by OMB under the PRA.

Dated: April 20, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–08949 Filed 4–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0356]

Agency Information Collection Activities; Proposed Collection; Comment Request; Establishment and Operation of Clinical Trial Data Monitoring Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information associated with the establishment and operation of clinical trial data monitoring committees.

DATES: Submit either electronic or written comments on the collection of information by June 28, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 28, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 28, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–N–0356 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Establishment and Operation of Clinical Trial Data Monitoring Committees.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg//FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance

the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Establishment and Operation of Clinical Trial Data Monitoring Committees

OMB Control Number 0910–0581—Extension

This collection of information supports Agency regulations and associated Agency guidance. Sponsors are required to monitor studies evaluating new drugs, biologics, and devices (21 CFR 312.50 and 312.56 for drugs and biologics, and 21 CFR 812.40 and 812.46 for devices). Various individuals and groups play different roles in clinical trial monitoring. One such group is a data monitoring committee (DMC), appointed by a sponsor to evaluate the accumulating outcome data in some trials. A clinical trial DMC is a group of individuals with pertinent expertise that reviews on a regular basis accumulating data from one or more ongoing clinical trials. The DMC advises the sponsor regarding the continuing safety of current trial subjects and those yet to be recruited to the trial, as well as the continuing validity and scientific merit of the trial.

The guidance document entitled ''Guidance for Clinical Trial Sponsors: Establishment and Operation of Clinical Trial Data Monitoring Committees'' (March 2006) is intended to assist sponsors of clinical trials in determining when a DMC is needed for monitoring a study and how such committees should operate and is available from our website at: *https://www.fda.gov/media/75398/download.* The guidance addresses the roles, responsibilities, and operating procedures of DMCs and describes certain reporting and recordkeeping responsibilities, including the following: (1) Sponsor reporting to FDA on DMC recommendations related to safety; (2) standard operating procedures (SOPs) for DMCs; (3) DMC meeting records; (4) sponsor notification to the DMC regarding waivers; and (5) DMC reports based on meeting minutes to the sponsor.

1. Sponsor Reporting to FDA on DMC Recommendations Related to Safety

The requirement of the sponsor to report DMC recommendations related to serious adverse events in an expedited manner in clinical trials of new drugs (§ 312.32(c)) (21 CFR 312.32(c)) would not apply when the DMC recommendation is related to an excess of events not classifiable as serious. Nevertheless, the Agency recommends in the guidance that sponsors inform FDA about all recommendations related to the safety of the investigational product whether or not the adverse event in question meets the definition of ''serious.''

2. SOPs for DMCs

In the guidance, FDA recommends that sponsors establish procedures to do the following things:

- Assess potential conflicts of interest of proposed DMC members;
- ensure that those with serious conflicts of interest are not included in the DMC;
- provide disclosure to all DMC members of any potential conflicts that are not thought to impede objectivity and, thus, would not preclude service on the DMC;
- identify and disclose any concurrent service of any DMC member on other DMCs of the same, related, or competing products;
- ensure separation, and designate a different statistician to advise on the management of the trial, if the primary trial statistician takes on the responsibility for interim analysis and reporting to the DMC; and
- minimize the risks of bias that are associated with an arrangement under which the primary trial statistician takes on the responsibility for interim analysis and reporting to the DMC, if it appears infeasible or highly impractical for any other statistician to take over responsibilities related to trial management.

3. DMC Meeting Records

The Agency recommends in the guidance that the DMC or the group preparing the interim reports to the DMC maintain all meeting records. This information should be submitted to FDA with the clinical study report (21 CFR 314.50(d)(5)(ii)).

4. Sponsor Notification to the DMC Regarding Waivers

The sponsor must report to FDA certain serious and unexpected adverse events in drugs and biologics trials (§ 312.32) and unanticipated adverse device effects in the case of device trials (21 CFR 812.150(b)(1)). The Agency recommends in the guidance that sponsors notify DMCs about any waivers granted by FDA for expedited reporting of certain serious events.

5. DMC Reports of Meeting Minutes to the Sponsor

The Agency recommends in the guidance that DMCs should issue a written report to the sponsor based on the DMC meeting minutes. Reports to the sponsor should include only those data generally available to the sponsor. The sponsor may convey the relevant information in this report to other interested parties, such as study investigators. Meeting minutes or other information that include discussion of confidential data would not be provided to the sponsor.

Description of the Respondents: The submission and data collection recommendations described in this document affect sponsors of clinical trials and DMCs.

Burden Estimate: Table 1 of this document provides the burden estimate of the annual reporting burden for the information to be submitted in accordance with the guidance. Table 2 of this document provides the burden estimate of the annual recordkeeping burden for the information to be maintained in accordance with the guidance. Table 3 of this document provides the burden estimate of the annual third-party disclosure burden for the information to be submitted in accordance with the guidance.

Reporting, Recordkeeping, and Third-Party Disclosure Burdens: Based on information from FDA review divisions, FDA estimates that there are approximately 740 clinical trials with DMCs regulated by the Center for Biologics Evaluation and Research, the Center for Drugs Evaluation and Research, and the Center for Devices and Radiological Health. FDA estimates that the average length of a clinical trial is 2 years, resulting in an annual estimate of 370 clinical trials. Because FDA has no information on which to project a change in the use of DMCs, FDA estimates that the number of clinical trials with DMCs will not change significantly. For purposes of this information collection, FDA estimates that each sponsor is responsible for approximately 10 trials, resulting in an estimated 37 sponsors that are affected by the guidance annually.

Based on information provided to FDA by sponsors that have typically used DMCs for the kinds of studies for which this guidance recommends them, FDA estimates that the majority of sponsors have already prepared SOPs for DMCs, and only a minimum amount of time is necessary to revise or update them for use for other clinical studies. FDA receives very few requests for

waivers regarding expedited reporting of certain serious events; therefore, FDA has estimated one respondent per year to account for the rare instance a request may be made. Based on FDA's experience with clinical trials using DMCs, FDA estimates that the sponsor on average would issue two interim reports per clinical trial to the DMC. FDA estimates that the DMCs would hold two meetings per year per clinical trial resulting in the issuance of two DMC reports of meeting minutes to the sponsor. One set of both of the meeting records should be maintained per clinical trial.

The ''Average Burden per Response'' and ''Average Burden per Recordkeeping'' are based on FDA's experience with comparable recordkeeping and reporting provisions applicable to FDA regulated industry. The ''Average Burden per Response'' includes the time the respondent would spend reviewing, gathering, and preparing the information to be submitted to the DMC, FDA, or the sponsor. The ''Average Burden per Recordkeeping'' includes the time to record, gather, and maintain the information.

The information collection provisions in the guidance for 21 CFR 312.30, 312.32, 312.38, 312.55, and 312.56 have been approved under OMB control number 0910–0014; 21 CFR 314.50 has been approved under OMB control number 0910–0001; and 21 CFR 812.35 and 812.150 have been approved under OMB control number 0910–0078.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Section of guidance/reporting activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
5. Sponsor reporting to FDA on DMC recommendations related to safety.	37	1	37	0.50 (30 minutes) ..	18.5
Total					18.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Section of guidance/recordkeeping activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
4.1. and 6.4. SOPs for DMCs	37	1	37	8	296
4.4.3.2. DMC meeting records	370	1	370	2	740
Total					1,036

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Section of guidance/disclosure activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
4.4.1.2. Sponsor notification to the DMC regarding waivers.	1	1	1	0.25 (15 minutes) ...	0.25
4.4.3.2. DMC reports of meeting minutes to the sponsor.	370	2	740	1	740
Total					740.25

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: April 22, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–08963 Filed 4–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Commission on Childhood Vaccines; Correction

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: HRSA published a document in the **Federal Register** of January 28, 2021, concerning a meeting of the Advisory Commission on Childhood Vaccines. The document contained incorrect dates. The date of the June 2021 Advisory Commission on Childhood Vaccines (ACCV) meeting has changed. The original date for the June 2021 ACCV meeting was June 3, 2021. The new date for the June 2021 ACCV meeting is June 18, 2021.

FOR FURTHER INFORMATION CONTACT: Annie Herzog, Division of Injury Compensation Programs, HRSA, 5600 Fishers Lane, Rockville, Maryland, 20857, (301) 443–6634; or *ACCV@HRSA.gov.*

SUPPLEMENTARY INFORMATION: For the latest information regarding the meeting, including its start time and the agenda, please access the ACCV website: *https://www.hrsa.gov/advisory-committees/vaccines/meetings.html.*

Correction

In the **Federal Register** of January 28, 2021, FR Doc. 2021–01879, page 7402, column 3, section 1, paragraph 2, correct the **DATES** caption to read:

DATES: ACCV meetings will be held on:

- March 4, 2021, 10:00 a.m. Eastern Time (ET)–4:00 p.m. ET;
- June 18, 2021, 10:00 a.m. ET–4:00 p.m. ET;
- September 2, 2021, 10:00 a.m. ET–4:00 p.m. ET;
- December 2, 2021, 10:00 a.m. ET–4:00 p.m. ET.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–08942 Filed 4–28–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Biodefense Science Board Public Teleconference

AGENCY: Office of the Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The National Biodefense Science Board (NBSB) provides expert advice and guidance on scientific, technical, and other matters of special interest to the Department regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

DATES: The May 26, 2021, public teleconference will include a general discussion of strategic priorities for public health and medical preparedness and a possible vote on recommendations. A more detailed agenda will be available on the NBSB meeting website *https://www.phe.gov/nbsb.*

ADDRESSES: Members of the public may attend the meeting via a toll-free call-in phone number or Web-ex enabled teleconference, which will be posted on *https://www.phe.gov/nbsb.* Members of the public may provide written comments for consideration by the NBSB at any time via email to *NBSB@hhs.gov.* If such comments are specific to the agenda for the current meeting, please use ''NBSB Public Comment for 05/26/2021 in the subject line. Members of the public are encouraged to provide additional comments after the meeting as well.

FOR FURTHER INFORMATION CONTACT: CAPT Christopher L. Perdue, MD, MPH, Executive Director, National Advisory Committees; NBSB Designated Federal Officer, Washington, DC, Office *NBSB@hhs.gov,* (202) 401–5837.

SUPPLEMENTARY INFORMATION: The National Biodefense Science Board (NBSB) is authorized under Section 319M of the Public PHS Act, as added by Section 402 of the Pandemic and All-Hazards Preparedness Act of 2006 and amended by Section 404 of the Pandemic and All-Hazards Preparedness Reauthorization Act. The Board is governed by the Federal Advisory Committee Act (5 U.S.C. App.), which sets forth standards for the formation and use of advisory committees.

Nikki Bratcher-Bowman,

Acting Assistant Secretary for Preparedness and Response.

[FR Doc. 2021–08951 Filed 4–28–21; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below via videocast. The URL link to this meeting is *https://videocast.nih.gov/watch=41947.* Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: May 18, 2021.

Open: 10:30 a.m. to 3:15 p.m.

Agenda: Discussion of Program Policies and Issues.

Place: National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Boulevard, One Democracy Plaza, Bethesda, MD 20892, *https://videocast.nih.gov/watch=41947* (Virtual Meeting).

Closed: 3:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Boulevard, One Democracy Plaza, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Susan E. Old, Ph.D., Acting Deputy Director, National Institute of Nursing Research, 31 Center Drive, Room 5B05, Bethesda, MD 20892, 301.496.7291, *oldse@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.ninr.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: April 23, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–08887 Filed 4–28–21; 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 a meeting of the Division of Intramural Research Board of Scientific Counselors, NIAID.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personnel qualifications and performance, and the

competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Division of Intramural Research Board of Scientific Counselors, NIAID.

Date: June 14–16, 2021.

Time: 9:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 50 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Laurie Lewellen, Committee Manager, Division of Intramural Research Program Support Staff, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 33, Room 1N24, 33 North Drive, Bethesda, MD 20892, 301–761–6362, *Laurie.Lewallen@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: April 23, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–08885 Filed 4–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Small-Cell Lung Cancer: Therapeutic Development and Mechanisms of Resistance (U01).

Date: June 2, 2021.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W122, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W122, Rockville, Maryland 20850, 240–276–5085, *tandlea@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–5: NCI Clinical and Translational Cancer Research.

Date: June 8–9, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shree Ram Singh, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–672–6175, *singhshr@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cellular Cancer Biology Imaging Research (CCBIR) Program.

Date: June 10–11, 2021.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W640, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Saejeong J. Kim, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W640 Rockville, Maryland 20850, 240–276–7684. *saejeong.kim@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–4: NCI Clinical and Translational Cancer Research.

Date: June 10–11, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–276–7975, *chufanee@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Projects VI (P01).

Date: June 17–18, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850, 240–276–6371, *decluej@mail.nih.gov*.

Name of Committee: National Cancer Institute Special; Emphasis Panel; SEP–8: NCI Clinical and Translational Cancer Research.

Date: June 23, 2021.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Byeong-Chel Lee, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850, 240–276–7755, *byeong-chel.lee@nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee J—Career Development.

Date: June 24–25, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W624, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Tushar Deb, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Rockville, Maryland 20850, 240–276–6132, *tushar.deb@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Small Business Transition Grants.

Date: July 9, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–276–7975, *chufanee@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 23, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–08876 Filed 4–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–1 Subcommittee NST–1.

Date: May 24–25, 2021.

Time: 9:00 a.m. to 5:00 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: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Rockville, MD 20852, (301) 496–0660, *benzingw@mail.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders C Translational, Brain, and Pain Relief Devices.

Date: June 1–2, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Diana M. Cummings, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Neurological Disorders and Stroke, NIH NSC, 6001 Executive Blvd., Suite 3208, Rockville, MD 20852, *cummingsdi@ninds.nih.gov*.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–2 Subcommittee.

Date: June 9–11, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting)

Contact Person: Deanna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, NSC Building, Rockville, MD 20852, 301–496–9223, *deanna.adkins@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: April 23, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–08886 Filed 4–28–21; 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: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Biochemistry and Biophysics of Membranes Study Section.

Date: June 2–3, 2021.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Clinical Informatics and Digital Health Study Section.

Date: June 9–10, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Leonie Misquitta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room, 10F09, Bethesda, MD 20892, (301) 594–6904, *misquitt@mail.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Science of Implementation in Health and Healthcare Study Section.

Date: June 10–11, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wenjuan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, Bethesda, MD 20892, (301) 480–8667, *wangw22@mail.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensory-Motor Neuroscience Study Section.

Date: June 10–11, 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: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@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: April 23, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–08878 Filed 4–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be virtual and can be accessed from the public NIEHS website: *https://www.niehs.nih.gov/news/webcasts/.*

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council.

Date: June 1–2, 2021.

Closed: June 01, 2021, 11:00 a.m. to 11:45 a.m.

Agenda: To review and evaluate to review and evaluate grant applications.

Place: Division of Extramural Research and Training, National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709 (Virtual Meeting).

Open: June 01, 2021, 12:00 p.m. to 4:30 p.m.

Agenda: Discussion of program policies and issues/Council Discussion.

Place: Division of Extramural Research and Training, National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709, *https://www.niehs.nih.gov/news/webcasts/* (Virtual Meeting).

Open: June 02, 2021, 11:00 a.m. to 3:30 p.m.

Agenda: Proposed DERT Actions/Presentation 3: ECHO.

Place: Division of Extramural Research and Training, National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709, *https://www.niehs.nih.gov/news/webcasts/* (Virtual Meeting).

Contact Person: Gary L Ellison, Ph.D., MPH, Acting Division Director, Division of Extramural Research and Training, National Institute of Environmental Health Science, Research Triangle Park, NC 27709, (240) 276–6783, *ellisong@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.niehs.nih.gov/dert/c-agenda.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: April 26, 2021.

David W Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–08982 Filed 4–28–21; 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: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Cellular, Molecular, and Immunobiology Study Section.

Date: June 1–2, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Development—2 Study Section.

Date: June 1–2, 2021.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

Name of Committee: Center for Scientific Review, Special Emphasis Panel; PAR 20–243: Digital Healthcare Interventions to Address the Secondary Health Effects Related to Social, Behavioral and Economic Impact of COVID–19.

Date: June 4, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Paul Hewett-Marx, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 672–8946, *hewettmarxpn@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: April 23, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–08884 Filed 4–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Modifications to the Collections Process for Deferred Tax Payments on Consumption Entries of Distilled Spirits, Wines, and Beer Imported Into the United States

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) is modifying the collections process for deferred payments of internal revenue taxes owed on consumption entries of distilled spirits, wines, and beer imported into the United States (other than in bulk containers). The primary modification announced in this notice is the harmonization of the determination of the due date for deferred tax payments with the entry summary date. Another modification is the consolidation of all

deferred tax entry bills from all ports of entry for one semi-monthly period into consolidated bill(s) viewable in the Automated Commercial Environment (ACE). CBP is further facilitating deferred tax payments by removing current policy restrictions on the filing of entries with deferred taxes and eliminating the now unnecessary Semi-Monthly Excise Tax Form (Greater than 50) for importers who pay deferred taxes through *Pay.gov*. Lastly, CBP is adding a new payment method for deferred taxes in ACE while also eliminating a current, but lesser-used payment method available through Fedwire.

DATES: The modifications to the collections process for deferred taxes that are announced in this notice will become operational on May 1, 2021, except for the elimination of the current payment method using Fedwire. To allow Fedwire users time to convert to a different payment method, CBP is granting a longer transition period through June 30, 2021. As of July 1, 2021, CBP will no longer accept payments of deferred taxes through Fedwire.

ADDRESSES: Comments concerning this notice may be submitted at any time via email to the ACE Collections Team, Investment Analysis Office, Office of Finance, U.S. Customs and Border Protection, at *ACECollections@cbp.dhs.gov*, with a subject line identifier reading ''Processing of Deferred Tax Payments.''

FOR FURTHER INFORMATION CONTACT: Steven J. Grayson, Program Manager, Investment Analysis Office, Office of Finance, U.S. Customs and Border Protection, at (202) 579–4400, or *steven.j.grayson@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Regarding the Ongoing Modernization of the Collections System

U.S. Customs and Border Protection (CBP) is modernizing its collections system, allowing CBP to eventually retire the Automated Commercial System (ACS) and transfer all collections processes into the Automated Commercial Environment (ACE). This modernization effort, known as ACE Collections, includes the consolidation of the entire collections system into the ACE framework, which will enable CBP to utilize trade data from ACE modules, benefitting both the trade community and CBP. The new collections system in ACE will reduce costs for CBP, create a common framework that aligns with other initiatives to reduce manual collection processes, and provide additional flexibility to allow for future technological enhancements. ACE Collections will also provide the public with more streamlined and better automated payment processes with CBP, including better visibility to data regarding specific transactions.

ACE Collections supports the goals of the Customs Modernization Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act) of modernizing the business processes that are essential to securing U.S. borders, speeding up the flow of legitimate shipments, and targeting illicit goods that require scrutiny. ACE Collections also fulfills the objectives of Executive Order 13659 (79 FR 10655, February 25, 2014) to provide the trade community with an integrated CBP trade system that facilitates trade from entry of goods to receipt of duties, taxes, and fees.

CBP is implementing ACE Collections through phased releases in ACE. Release 1, which was deployed on September 7, 2019, dealt with statements integration, the collections information repository (CIR) framework, and ACH (automated clearinghouse) processing. *See* 84 FR 46749 and 84 FR 46678 (September 5, 2019), and 84 FR 49650 (September 23, 2019). Release 2 was deployed on February 5, 2021, and focused on non-ACH electronic receivables and collections, such as Fedwire, *Pay.gov*, Harbor Maintenance Fee (HMF) and Seized Assets and Case Tracking System (SEACATS) payments, and broker fees. All of the changes in Release 2 were internal to CBP and did not affect the trade community.

As explained more fully below, Release 3 will be deployed on May 1, 2021, and focuses on billing and debt collection. It includes mainly internal, technical changes to the liquidation process, bills, and user fees, and also makes the modifications to the collections process for deferred tax payments that are announced and explained in this notice. The changes for deferred tax will benefit importers by providing flexibility for how to make their tax payments and access to data regarding which entries are covered by specific bills and payments. Additional releases will follow, and any further changes affecting the trade community will be announced by notice in the **Federal Register**, as needed.

II. Modifications to Processing of Deferred Tax Payments for Consumption Entries of Imported Alcoholic Beverages

The CBP regulations provide an optional method for the payment of estimated import taxes on distilled spirits, wines, and beer imported into the United States (other than in bulk containers) (hereinafter referred to as ''alcoholic beverages''). Specifically, an importer, including a transferee of alcoholic beverages in a Customs bonded warehouse, may pay on a semi-monthly basis the estimated import taxes on alcoholic beverages entered, or withdrawn from warehouse, for consumption, subject to the requirements in section 24.4 of title 19 of the Code of Federal Regulations (19 CFR 24.4).

Consistent with 19 CFR 24.4 and other applicable regulations, this notice announces six modifications to the processing of deferred payments of internal revenue tax owed on consumption entries of alcoholic beverages (hereinafter referred to as ''deferred tax payments''). The primary modification is regarding the determination of the deferred tax payment due date, which is being harmonized with the entry summary date. In addition, CBP is consolidating all deferred tax entry bills from all ports of entry for one semi-monthly period into consolidated bill(s) viewable in ACE, with more detailed information available for viewing via an importer's ACE Portal account. Other modifications that facilitate deferred tax payments include simplified requirements for importers to file entries with deferred taxes at all ports of entry; the elimination of the now unnecessary Semi-Monthly Excise Tax Form (Greater than 50) for importers who pay deferred taxes through Pay.gov; the addition of a new electronic payment method, using ACH debit and ACH credit via the Automated Broker Interface (ABI) in ACE; and, the elimination of a current, but lesser-used electronic payment method available through Fedwire.

CBP is making the modifications described above to streamline the collections system and facilitate the process for importers for making deferred tax payments. CBP has reviewed and assessed the collections requirements from fiscal year (FY) 2018, and after a thorough evaluation, identified the requirements and modernization opportunities to support users of CBP's collections system. Throughout this evaluation, CBP has collaborated with stakeholders within CBP, as well as members of the trade community, and received valuable feedback, which was incorporated in the new ACE Collections requirements for deferred tax payments. The modifications announced in this notice will become operational on May 1, 2021, except for the elimination of

Fedwire as a payment method. As of July 1, 2021, CBP will no longer accept payments of deferred taxes through Fedwire. A more detailed description of each of the modifications follows below.

A. Harmonization of the Determination of the Due Date for Deferred Tax Payments

An importer must pay internal revenue taxes on importations of alcoholic beverages pursuant to 26 U.S.C. 5061. *See generally,* 19 CFR 141.1 and 141.3, regarding the importer's obligations to pay these taxes upon entry of merchandise imported into the United States. According to the Internal Revenue Code, the last day for an importer to pay the tax levied on consumption entries of alcoholic beverages is the 14th day after the last day of the semi-monthly period during which the article is entered into the customs territory of the United States. 26 U.S.C. 5061(d)(2)(A). Under CBP regulations, an importer may choose to pay internal revenue taxes on imported alcoholic beverages at the time of entry or to apply for approval to defer the taxes and pay on a semi-monthly basis pursuant to 19 CFR 24.4(b). If an importer is approved by CBP for deferred tax payments, CBP's current practice is to use the date of entry (which is typically the time that merchandise is released from CBP custody) to set the semi-monthly period and thus determine the due date for an importer's payment of internal revenue taxes on consumption entries.

Currently, deferred tax payments are due on the 14th day after the last day of the semi-monthly period in which distilled spirits, wines, and beer are entered, or withdrawn from warehouse, for consumption. However, the entry summary date generally establishes the time of entry for goods in many instances, such as when goods are withdrawn for consumption from bonded warehouses, when goods are subject to quotas or immediate delivery procedures, and when the entry summary serves as the entry and entry summary, or when entries are certified from summary.

To streamline the collections process, this notice announces the harmonization of CBP's operations for determining the due date of deferred tax payments on consumption entries of imported alcoholic beverages. CBP will use the entry summary date when the entry summary is filed timely to fix the semi-monthly period under 26 U.S.C. 5061(d)(2)(A), and thus set the due date for the payment of deferred taxes. Where applicable, deferred tax payments will be due on the 14th day after the last day of the semi-monthly period in which the entry summary date falls. Using the entry summary date to determine the date of payment when the entry summary date establishes the time of entry remains within the scope of the current CBP regulations.[1] Further, in some instances, the entry summary documentation may contain information that enhances CBP's ability to assess and collect internal revenue taxes, and thus, it is more operationally sound for CBP to rely upon timely submitted entry summary data to fix the semi-monthly period under 26 U.S.C. 5061(d)(2)(A). With this streamlined approach, CBP will be able to produce a more accurate bill for deferred taxes. It is important to note that the use of the entry summary date does not interfere with an importer's ability to pay the deferred taxes early. Early payment will still be allowed, but it will not change the semi-monthly period (which will be fixed based on the entry summary date when timely).

B. Issuance of a Consolidated Bill (CBP Form 6084) and Availability of Detailed Billing Information in ACE Reports

Currently, an importer who requests to receive a physical (hard copy) bill will receive a CBP Form 6084 by mail for each entry upon which the importer owes deferred taxes.[2] As a result, an importer who makes such a request may receive multiple, individual bills per payment period for each port where the importer filed entries with deferred taxes. Alternatively, an importer who does not wish to receive physical bills must identify and track its individual entries and the total amount of deferred taxes owed for one semi-monthly period in order to accurately pay the taxes owed. CBP notes that the majority of importers who pay deferred taxes elect not to receive physical bills and, instead, they track the amounts owed within their own internal systems.

To streamline the billing process and provide more transparency for importers, this notice announces that every importer who files entries with deferred taxes will receive one or more consolidated bills in ACE for each semi-monthly period. Consolidation into one bill is applicable to an importer who self-files (or employs a single licensed customs broker) and uses the same bond to cover all entries filed with deferred taxes in a particular semi-monthly period. However, multiple consolidated bills will be issued when, in a particular semi-monthly period, an importer: self-files and employs a licensed customs broker(s) to file entries on the importer's behalf; employs multiple licensed customs brokers to file entries on the importer's behalf; and/or uses multiple bonds to cover the entries. In short, the consolidation is per importer of record number/per filer code/per bond number for a semi-monthly period.

The consolidated bills will be viewable only in ACE and will also include a consolidated bill number for reference. An importer may use the consolidated bill number to easily view all of the covered entries and the total amount of taxes owed in a semi-monthly period in ACE Reports, which is the data repository for ACE Collections. Only importers who have an ACE Portal account will be able to view the consolidated billing data in ACE Reports. CBP encourages importers who do not already have an ACE Portal account to apply for access to be able to view the necessary data to make accurate payments of deferred tax.[3] CBP will work with importers to provide any needed support when setting up ACE Portal accounts.

Please note that while importers may continue to request to receive physical bills by mail for each entry upon which deferred taxes are owed at this time, CBP is advising that physical bills will likely be consolidated in a future deployment in ACE Collections. Like the consolidated bills in ACE, the consolidated physical bills are expected to include a reference number (without identifying all of the individual entries). To view all of the covered entries and the total amount of taxes owed in a semi-monthly period, importers who receive consolidated physical bills would need to have an ACE Portal account to access the data in ACE Reports.

The availability of consolidated bills in ACE will reduce the amount of time that importers have spent in the past on identifying and tracking individual

[1] CBP notes that this change does not affect the applicability of the special rule set forth in 26 U.S.C. 5061(d)(6), which states that if the due date under 26 U.S.C. 5061(d) falls on a Saturday, Sunday, or a legal holiday, the due date for tax payment will be the immediately preceding day which is not a Saturday, Sunday, or holiday (or the immediately following day if the due date described in 26 U.S.C. 5061(d)(5) falls on a Sunday).

[2] An importer may request that CBP send a physical (hard copy) bill by mail by specifying a particular code when filing an entry with deferred taxes via ABI in ACE. For additional information, *see* the CBP and Trade Automated Interface Requirements (CATAIR), specifically the chapter entitled Entry Summary Create/Update, which is available online at: *https://www.cbp.gov/document/technical-documentation/entry-summary-createupdate-catair-draft.*

[3] The step-by-step instructions to apply for an ACE Portal account are available online at: *https://www.cbp.gov/trade/automated/getting-started/portal-applying.*

entries, and determining the total amount owed for one semi-monthly period. Another anticipated benefit is the potential reduction of the number of items held temporarily on the budget clearing account (BCA) [4] until a payment has been matched to an entry bill. Because a consolidated bill must be paid in full to show each individual entry as paid, and before post-summary corrections may be filed, it is expected that this change will reduce the number of items on the BCA. This will, in turn, increase visibility of individual entries paid and provide a more timely and accurate billing and collection process. Lastly, CBP notes that this consolidation of bills is also consistent with 19 CFR 24.4(f), which does not limit deferred tax bills to one entry number per bill.

C. Expansion of Filing of Deferred Taxes to All Ports

Currently, an importer may file for approval to make deferred tax payments with the Center of Excellence and Expertise (Center) director, either at a port of entry or electronically (19 CFR 24.4(a)).[5] However, the process for an importer to pay deferred taxes is not similarly centralized. In order to file entries with deferred tax, an importer must submit those entries at each port of entry where the merchandise is entered. As a result, an importer who wishes to import entries with deferred tax at multiple ports must file the deferred tax entries at each of those ports.

In order to facilitate the deferred tax payment process for importers, this notice announces that an importer is able to file entries with deferred taxes at any port nationwide. This change provides convenience to the importers when filing entries with deferred taxes as they are no longer limited to a particular port. CBP notes that the expansion of filing of deferred taxes to all ports is also consistent with 19 CFR 24.4, which does not require the use of a specific port for making deferred tax payments.

D. Elimination of Semi-Monthly Excise Tax Form (Greater Than 50) and Automatic Payment Processing

Currently, an importer may use the Semi-Monthly Excise Tax Form (Greater than 50), which can be found on *Pay.gov*, when making deferred tax payments for more than 50 entries on Pay.gov.[6] To properly complete this form, an importer must manage its own tracking system to keep count of the amount of deferred taxes owed on the entries for a specific semi-monthly period. This is necessary because ACE lists only the individual entries with deferred taxes owed, but not the total amount owed. When making a payment for the total amount of deferred taxes for all the entries on *Pay.gov*, the importer must include an attachment that lists all the entries covered, along with the Semi-Monthly Excise Tax Form (Greater than 50). Not only is an importer burdened with the process of identifying and tracking entries, determining the total amount owed and submitting two types of documentation, but so is CBP. After payment, CBP manually processes each entry and associated payment by the importer by keying in the bill number for each unique entry in ACE.

This notice announces that CBP is eliminating the Semi-Monthly Excise Tax Form (Greater than 50) as it is no longer needed due to the change in the bill format to allow for consolidated billing, as described above. For a consolidated bill, an importer will make one lump sum payment of the consolidated amount on *Pay.gov*, referencing the consolidated bill number. Please note that an importer who continues to request to receive physical bills by mail will need to identify and track individual entries for each semi-monthly period to determine the taxes owed, and, in addition, contact CBP (at *ACECollections@cbp.dhs.gov*) to obtain the consolidated bill number to provide when making tax payments on *Pay.gov*. CBP encourages importers to avoid this more cumbersome process by applying for access to an ACE Portal account for full viewing capacity for consolidated bills.

Despite the elimination of the now unnecessary Semi-Monthly Excise Tax Form (Greater than 50), CBP will continue to make available the Semi-Monthly Excise Tax Form (50 and Under) for importers making payments on *Pay.gov*. Importers will no longer need to list individual entries on this form, but only the consolidated bill number(s) and dollar amount(s). As soon as the payment is made on *Pay.gov*, the payment will be posted the same night in ACE, and the payment of all taxes within one consolidated bill will automatically be matched to each entry from the CIR file. This programming change to allow for automated processing will save CBP resources that were previously used for manual data entry, reconciliation, and other manual processes, and will also promote faster processing times of the taxes owed.

E. Addition of a New Payment Method of ACH Debit and ACH Credit via ABI in ACE

Currently, importers may use ACH debit on *Pay.gov* or Fedwire for the payment of deferred taxes. An importer who chooses to use *Pay.gov* will initiate the payment and select the next business day as the earliest payment date or a later date. An importer who chooses to use Fedwire will initiate a payment the same day up to the cutoff time established by the bank used by the importer. Under both payment options, the settlement date is recorded as the collection date for the payment.

This notice announces that CBP is making available to importers an additional electronic payment method (for both ACH debit and ACH credit) via ABI in ACE for the payment of deferred taxes. In the case of payment by ACH debit, the importer may initiate a debit authorization through ACE, and the authorization date (which may be earlier than the settlement date) will be recorded as the collection date (to be consistent with the collection date for ACE payments for statements). *See* 84 FR 46678 (September 5, 2019). In the case of payment by ACH credit via an authorization in ACE, the importer may initiate the credit transaction through its financial institution, and the bank post date (which is the same as the settlement date) will be recorded as the collection date for the payment (to be consistent with the collection date for ACE payments for statements). *See https://www.cbp.gov/trade/basic-import-export/automated-clearinghouse-ach.*

The updated ACE programming instructions and instructions regarding the format for making payments via ABI in ACE are available in a new CBP and Trade Automated Interface Requirements (CATAIR) document entitled ''ACE Automated Broker Interface Automated Interface Requirements''. *See https://www.cbp.gov/document/guidance/draft-ace-catair-ach-debit-authorizationentry-summary-presentation.* Also, the current payment method for ACH debit available through Pay.gov will not

[4] A budget clearing account (BCA) is an account that is used to deposit funds that are not immediately identifiable to be matched to an open receivable.

[5] CBP recently made regulatory changes to 19 CFR 24.4, which transitioned the processing of tax deferral approval requests from the ports to the Centers. *See* 81 FR 92978 (December 20, 2016)

[6] As noted elsewhere in this notice, an importer currently has the option of paying deferred taxes using ACH debit on *Pay.gov* or Fedwire. When using Fedwire, the Semi-Monthly Excise Tax Forms for Greater than 50, and 50 and Under are not used. Instead, the importer transmits the relevant information in a separate email. Thus, the elimination of the Semi-Monthly Excise Tax Form (Greater than 50) announced in this notice is only relevant when payment is made on *Pay.gov*.

change and will continue to be available for the payment of deferred taxes.[7]

F. Elimination of a Current Payment Method Using Fedwire

This notice announces that CBP will eliminate the current payment method for Fedwire, which is a lesser-used method than another payment method available to importers through *Pay.gov*. Currently, CBP manually posts the deferred tax payments received through Fedwire, requiring additional CBP resources for data entry and processing. Even though the payment process is electronic for importers, the use of Fedwire places a significant burden on CBP. By eliminating the manual processing of Fedwire payments, CBP will conserve resources that can be used for other aspects of payment processing. Moreover, CBP is providing importers with a new payment method for ACH debit and ACH credit via ABI in ACE, in addition to the already existing payment method for ACH debit in *Pay.gov*. Accordingly, importers will continue to have multiple convenient options to choose from when making deferred tax payments.

To enable those importers who currently use Fedwire to switch their payment method to *Pay.gov* or the new option available for ACH debit or ACH credit via ABI, CBP is announcing a transition period. Fedwire will continue to be available as a payment method through June 30, 2021. This transition period will allow for importers who have been using Fedwire as their preferred payment method to adjust their business processes for the use of another payment method. CBP will work with importers to provide any needed support during the transition period. As of July 1, 2021, CBP will no longer accept payments of deferred taxes through Fedwire.

Dated: April 23, 2021.

Jeffrey Caine,

Chief Financial Officer, U.S. Customs and Border Protection.

[FR Doc. 2021–08925 Filed 4–28–21; 8:45 am]

BILLING CODE 9111–14–P

[7] For guidance on using *Pay.gov*, go to *https://www.cbp.gov/trade/basic-import-export/acceptable-electronic-payment-methods,* click on the Pay.gov link and on the Pay.gov website, choose the applicable CBP form for making a payment.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/A0A501010.999253G; OMB Control Number 1076–0131]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Indian Child Welfare Quarterly and Annual Report

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to revise an information collection.

DATES: Interested persons are invited to submit comments on or before June 1, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* . Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to: Ms. Evangeline Campbell, Chief, Division of Human Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS–3641–MIB, Washington, DC 20240; fax: (202) 208–5113; email: *Evangeline.Campbell@bia.gov.* Please reference OMB Control Number 1076–0131 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Evangeline Campbell by email at *Evangeline.Campbell@bia.gov,* or by telephone at (202) 513–7621. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published November 24, 2020 (85 FR 75029). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (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 BIA 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: The BIA is seeking to revise the information collection conducted under 25 CFR 23, related to the Indian Child Welfare Act (ICWA). This revision updates the forms to add instructions, allow Part A and Part B to be separated to facilitate the appropriate Tribal officials filling out each, and revising some of the data fields to improve clarity and include information on child abuse and neglect cases involving human trafficking, for example. The BIA collects information using a consolidated caseload form, which Tribal ICWA program directors complete. The BIA uses the information to determine the extent of service needs in local Indian communities, assess ICWA program effectiveness, and

provide date for the annual program budget justification. The aggregated report is not considered confidential. The form must be completed by Federally recognized Tribes that operate child protection programs. Submission of this information by Federally recognized Tribes allows the BIA to consolidate and review selected data on Indian child welfare cases. The data is useful on a local level, to the Tribes and Tribal entities that collect it, for case management purposes. The data are useful on a nationwide basis for planning and budget purposes.

Title of Collection: Indian Child Welfare Quarterly and Annual Report.

OMB Control Number: 1076–0131.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Federally recognized Tribes or Tribal entities that are operating programs for Tribes.

Total Estimated Number of Annual Respondents: 565 per year, on average.

Total Estimated Number of Annual Responses: 2,260 per year, on average.

Estimated Completion Time per Response: Approximately 30 minutes for Part A—ICWA Data; approximately 30 minutes for Part B—Tribal Child Abuse and Neglect Data.

Total Estimated Number of Annual Burden Hours: 1,130 per year on average.

Respondent's Obligation: A response is required to obtain a benefit.

Frequency of Collection: Four times per year for the Part A—ICWA Data; if applicable, four times per year for Part B—Tribal Child Abuse Neglect Data.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–08946 Filed 4–28–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/ A0A501010.999900253G]

Notice of Intent To Prepare an Environmental Impact Statement for the Chuckwalla Solar Projects on the Moapa River Indian Reservation, Clark County, Nevada; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent to prepare an environmental impact statement; correction.

SUMMARY: On April 23, 2021, the Bureau of Indian Affairs (BIA) published in the **Federal Register** a notice announcing that it intends to prepare an Environmental Impact Statement (EIS) that will evaluate the development of the Chuckwalla Solar Projects on Moapa River Indian Reservation tribal lands. The document contained an incorrect comment deadline.

DATES: All comments on the Chuckwalla Solar Projects EIS must be received by May 24, 2021.

ADDRESSES: Send written comments to Mr. Chip Lewis, BIA Western Regional Office, 2600 North Central Avenue, 4th Floor Mailroom, Phoenix, Arizona 85004. Comments may also be sent via email to *Chip.Lewis@bia.gov* or on the Projects website at *www.ChuckwallaSolarProjectsEIS.com.*

FOR FURTHER INFORMATION CONTACT: Chip Lewis, BIA; telephone: (602) 379–6750; email: *Chip.Lewis@bia.gov.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of April 23, 2021, in FR Doc. 2021–08469, on page 21760, in the second column, correct the comment deadline in the **DATES** section of the notice to read ''May 24, 2021.''

Bryan Newland,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2021–08952 Filed 4–28–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/ A0A501010.999900253G]

Indian Gaming; Extension of Tribal-State Class III Gaming Compact (Rosebud Sioux Tribe and the State of South Dakota)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compact between the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the State of South Dakota.

DATES: The extension takes effect on April 29, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: An extension to an existing Tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. 25 CFR 293.5. The Rosebud Sioux Tribe of the Rosebud Indian Reservation and the State of South Dakota have reached an agreement to extend the expiration date of their existing Tribal-State Class III gaming compact to October 24, 2021. This publication provides notice of the new expiration date of the compact.

Bryan Newland,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2021–08950 Filed 4–28–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[18XD4523WT DWT000000.000000 DS64950000 DP.64920; OMB Control Number OMB Control Number 1090–0007]

Agency Information Collection Activities; American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Surveys

AGENCY: Office of Strategic Employee and Organization Development, Federal Consulting Group, Office of the Secretary, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the

Federal Consulting Group (FCG), is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before June 28, 2021.

ADDRESSES: Send written comments on this information collection request to Federal Consulting Group, Attention: Rafael Williams, 1849 C St. NW, MS 4344, Washington, DC 20240–0001, or via email to *rafael_williams@ios.doi.gov* or by phone to (202) 748–3770. Individuals providing comments should reference Customer Satisfaction Surveys (OMB ID: 1090–0007) in the subject line of their comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Rafael Williams, Federal Consulting Group, by email at *Rafael_williams@ios.doi.gov,* and by telephone at 202–748–3770.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Whether the proposed collection of information is necessary for the proper performance of FCG's functions, including whether the information will have practical utility; (2) the accuracy of FCG's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Government Performance and Results Act of 1993 (GPRA) (Pub. L. 103–62) requires agencies to ''improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction.'' To fulfill this responsibility, Federal agencies must collect data from their respective user groups to better understand the needs and desires of the public and to respond accordingly. Executive Order 12862 ''Setting Customer Service Standards'' also requires all executive departments to ''survey customers to determine . . . their level of satisfaction with existing services.'' FCG provides access for all Federal agencies to use the American Customer Satisfaction Index (ACSI) for customer satisfaction surveying to help the Federal government fulfill its responsibilities to provide excellence in government by proactively consulting with those we serve.

The Office of Management and Budget regulation @5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. The Office of Strategic Employee and Organization Development, Federal Consulting Group will submit a request to the Office of Management and Budget to renew its approval of this collection of information for three years.

The proposed renewal of this information collection activity provides a means to consistently assess, benchmark, and improve customer satisfaction with Federal government agency programs and/or services within the Executive Branch. The Federal Consulting Group of the Department of the Interior serves as the executive agent for this methodology and has partnered with the Claes Fornell International Group (CFI Group) and the American Customer Satisfaction Index (ACSI) to offer the ACSI to Federal government agencies.

The CFI Group, a leader in customer satisfaction and customer experience management, offers a comprehensive model that quantifies the effects of quality improvements on citizen satisfaction. The CFI Group has developed the methodology and licenses it to the American Customer Satisfaction Index, an independent organization which produces the American Customer Satisfaction Index (ACSI). This national indicator is developed for different economic sectors each quarter, which are then published in *The Wall Street Journal.* The ACSI was introduced in 1994 by Professor Claes Fornell under the auspices of the University of Michigan, the American Society for Quality (ASQ), and the CFI Group. The ACSI monitors and benchmarks customer satisfaction across more than 200 companies and many U.S. Federal agencies.

The ACSI is the only internationally recognized cross-industry, cross-agency methodology for obtaining comparable measures of customer satisfaction for Federal government programs and/or services. Along with other economic objectives—such as employment and growth—the quality of outputs (goods and services) is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to American citizens.

ACSI surveys conducted by the Federal Consulting Group are subject to the Privacy Act of 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 552a). The agency information collection is an integral part of conducting an ACSI survey. The contractor will not be authorized to release any agency information upon completion of the survey without first obtaining permission from the Federal Consulting Group and the participating agency. In no case shall any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating Federal agencies may only provide information used to randomly select respondents from among established systems of records provided for such routine uses.

There is no other agency or organization able to provide the information accessible through the surveying approach used in this information collection. Further, the information will enable Federal agencies to determine customer satisfaction metrics with discrimination capability across variables. Thus, this information collection will assist Federal agencies in making the best use of resources in a targeted manner to improve service to the public.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it is operating under a currently valid OMB control number. The Office of Management and Budget control number for this collection is 1090–0007. The control number will be displayed on the surveys used. Response to the surveys is voluntary.

Title of Collection: American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Surveys.

OMB Control Number: 1090–0007.

Form Number: None.

Type of Review: Renewal of a currently approved collection.

Respondents/Affected Public: Individuals, Business, and State, Local, or Tribal Governments who have utilized Federal Government services.

Total Estimated Number of Annual Respondents: Participation by Federal agencies in the ACSI is expected to vary as new customer segment measures are added or deleted. However, based on historical records, projected average estimates for the next three years are as follows:

Average Expected Annual Number of Customer Satisfaction Surveys: 100 with 800 respondents per survey.

Total Estimated Number of Annual Responses: 80,000.

Estimated Completion Time per Response: 12.0 minutes.

Total Estimated Number of Annual Burden Hours: 16,000.

Respondent's Obligation: Voluntary.

Frequency of Collection: Once per survey.

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. 2021–08426 Filed 4–28–21; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61104]

Notice of Call for Nominations for the *Exxon Valdez* Oil Spill Public Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Call for nominations notice.

SUMMARY: The *Exxon Valdez* Oil Spill Trustee Council (Trustee Council) is soliciting nominations for the Public Advisory Committee (Committee). This Committee advises the Trustee Council on decisions related to the planning, evaluation, funds allocation, and conduct of injury assessment and restoration activities related to the T/V *Exxon Valdez* oil spill of March 1989.

DATES: All nominations must be received by June 14, 2021.

ADDRESSES: A complete nomination package should be submitted by hard copy or via email to Shiway Wang, Acting Executive Director, *Exxon Valdez* Oil Spill Trustee Council, 4230 University Drive, Suite 220, Anchorage, Alaska, 99508–4650, or at *shiway.wang@alaska.gov.* Also please copy Linda Kilbourne, Administrative Manager, on any email correspondence at *linda.kilbourne@alaska.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Philip Johnson, Department of the Interior, Office of Environmental Policy and Compliance, telephone number: (907) 786–3914; email: *philip_johnson@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: The Committee was created pursuant to Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The Committee advises the Trustee Council on matters relating to decisions on injury assessment, restoration activities, or other use of natural resource damage recoveries obtained by the government. The Trustee Council consists of representatives of the U.S. Department of the Interior, U.S. Department of Agriculture, National Oceanic and Atmospheric Administration, Alaska Department of Fish and Game, Alaska Department of Environmental Conservation, and Alaska Department of Law.

The Committee consists of 10 members to reflect balanced representation from each of the following principal interests: Aquaculture/mariculture, commercial tourism, conservation/environmental, recreation, subsistence use, commercial fishing, native landownership, sport hunting/fishing, science/technology, and public-at-large.

We are soliciting nominations for seven positions that represent aquaculture/mariculture, commercial fishing, commercial tourism, recreation, Native landownership, subsistence, and public-at-large interests. The Committee members will be selected and appointed by the Secretary of the Interior to serve a two-year term.

Nominations for membership may be submitted by any source. Nominations should include a résumé providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Committee and permit the Department of the Interior to contact a potential member.

Authority: 5 U.S.C. Appendix 2.

Philip Johnson,

Regional Environmental Officer, Office of Environmental Policy and Compliance.

[FR Doc. 2021–08979 Filed 4–28–21; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV933000.19200000–ET0000.LRORF2012100; TAS XXX; N–98605; MO# 4500146306]

Notice of Application for Withdrawal; and Notification of Public Meeting; Nye County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is providing notice of an application from the National Aeronautics and Space Administration (NASA) requesting that the Secretary of the Interior withdraw and reserve lands necessary for NASA's satellite calibration activities within the Railroad Valley (RRV), Nye County, Nevada, area for a period of 20 years, subject to valid existing rights. Publication of this Notice segregates approximately 22,995.05 acres of public lands from all forms of appropriation or other disposition under the public land laws, including the mining, mineral leasing, and geothermal leasing laws, for up to

two years, subject to valid existing rights. This notice also invites the public to comment on the withdrawal application by several methods, including a virtual public meeting.

DATES: Comments must be received by July 28, 2021. On Monday, July 19, 2021, from 11:00 a.m. to 12:00 p.m. Eastern time, NASA will hold a virtual public meeting in connection with the proposed withdrawal. NASA will publish further instructions about how to access the online public meeting in the *Reno Gazette-Journal* (Reno), *Las Vegas Review-Journal* (Las Vegas), *The Ely Times* (Ely), and *Tonopah Times-Bonanza & Goldfield News* (Tonopah) newspapers a minimum of 30 days prior to the meeting.

ADDRESSES: All comments should be sent to the BLM Nevada State Office, 1340 Financial Boulevard., Reno, NV 89502; faxed to 775–861–6606; or sent by email to *blm_nv_so_nasafrncomments@blm.gov.* The BLM will not consider comments received via telephone calls.

FOR FURTHER INFORMATION CONTACT: Edison Garcia, Land Law Examiner, BLM, by telephone at 775–861–6530; by email at *edisongarcia@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–775–861–6511 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: NASA has filed an application requesting that the Secretary of the Interior withdraw the public lands described below from all forms of appropriation or other disposition under the public land laws, including the mining, mineral leasing, and the geothermal leasing laws, subject to valid existing rights, and reserve them for NASA's satellite calibration activities within the Railroad Valley, Nye County, Nevada area for a period of 20 years.

Publication of this Notice segregates approximately 22,995.05 acres of public lands, for up to two years from all forms of appropriation or other disposition under the public land laws, including the mining, mineral leasing, and geothermal leasing laws, subject to valid existing rights. This notice also invites the public to comment on the withdrawal application by several methods, including a virtual public meeting to be held Monday, July 19, 2021, from 11:00 a.m. to 12:00 p.m. Eastern time.

The two-year segregation of 22,995.05 acres of public land will provide the BLM and NASA time to prepare an Environmental Assessment (EA) which will analyze the environmental effects of the requested withdrawal and any alternatives in order for the BLM to make a recommendation to the Secretary of the Interior. Further, NASA intends to select from among the segregated lands a subset of those lands most suitable for its purposes; therefore, it is likely that if the Secretary does elect to withdraw any of the lands requested, far fewer of the segregated lands would eventually be withdrawn.

As required by section 204(b)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1714(b)(1), and the BLM regulations at 43 CFR part 2300, the BLM is publishing Notice of NASA's application to withdraw the following described lands:

Mount Diablo Meridian, Nevada

T. 7 N., R. 56 E.,
Secs. 2 thru 17;
Secs. 20 thru 27.
T. 8 N., R. 56 E.,
Secs. 19 thru 21;
Secs. 27 thru 35.

The areas described aggregate 22,995.05 acres in Nye County.

According to the application, RRV is the only location in the U.S. with the appropriate characteristics to enable satellite calibration and has been used for these purposes since 1993. Alternative sites to RRV are less desirable, due to the effects of human activity, site inhomogeneity, topography, and excessive brightness—all of which negatively impact the accuracy of sensor readings for satellite calibration. The lands subject to the withdrawal application are the lands for which protection is sought from the impacts of exploration and development under the United States mineral and geothermal leasing laws.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain non-discretionary uses which could result in permanent loss of significant values and Federal investment in the long-term satellite calibration program established for NASA.

No water will be needed to fulfill the purpose of the requested withdrawal.

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 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.

Notice is hereby given that a virtual (online) public meeting in connection with the application for withdrawal will be held on Monday, July 19, 2021, from 11:00 a.m. to 12:00 p.m. Eastern time. NASA will publish a notice of the online venue in local newspapers a minimum of 30 days before the schedule date of the meeting.

Authority: 43 U.S.C. 1714(b)(1) and 43 CFR 2310.3–1

Jon K. Raby,

State Director, Nevada.

[FR Doc. 2021–08881 Filed 4–28–21; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM910000 L07772100.XX0000 212L1109AF]

Second Call for Nominations for the Bureau of Land Management New Mexico Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations to the Bureau of Land Management's (BLM) Northern New Mexico Resource Advisory Council (RAC) and Southern New Mexico RAC that have vacant positions and/or members whose terms are scheduled to expire. These RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.

DATES: All nominations must be received no later than June 1, 2021.

ADDRESSES: Nominations and completed applications should be sent to the appropriate BLM offices listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Allison Sandoval, BLM New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone: 505–954–2019, email: *aesandoval@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Sandoval during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question.

You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784. The RACs include the following three membership categories:

Category One—Holders of Federal grazing permits or leases within the area for which the RAC is organized; represent interests associated with transportation or rights-of-way; represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities; represent the commercial timber industry; or represent energy and mineral development.

Category Two—Representatives of nationally or regionally recognized environmental organizations; dispersed recreational activities; archaeological and historical interests; or nationally or regionally recognized wild horse and burro interest groups.

Category Three—Hold State, county, or local elected office; are employed by a State agency responsible for the management of natural resources, land, or water; represent Indian tribes within or adjacent to the area for which the RAC is organized; are employed as academicians in natural resource management or the natural sciences; or represent the affected public at large.

Individuals may nominate themselves or others. Nominees must be residents of the State of New Mexico. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographic area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making.

The following must accompany all nominations:

—A completed RAC application, which can either be obtained through your local BLM office or online at: *https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf*

—Letters of reference from represented interests or organizations; and

—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, BLM State Offices will issue press releases providing additional information for submitting nominations.

Before including any address, phone number, email address, or other personal identifying information in the application, nominees should be aware this information may be made publicly available at any time. While the nominee can ask to withhold the personal identifying information from public review, the BLM cannot guarantee that it will be able to do so.

Nominations and completed applications for RACs should be sent to the appropriate BLM offices listed below:

New Mexico

Southern New Mexico RAC

Glen Garnand, BLM Roswell Field Office, 2909 West Second Street, Roswell, NM 88201; Phone: (575) 627–0209.

Northern New Mexico RAC

Jillian Aragon, BLM Farmington Field Office, 6251 College Boulevard, Suite A, Farmington, NM 87402; Phone: (505) 564–7722.

(Authority: 43 CFR 1784.4–1)

Steven R. Wells,

Acting New Mexico State Director.

[FR Doc. 2021–08882 Filed 4–28–21; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–NEW]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; New Information Collection; Financial History Questionnaire—ATF Form 8620.28

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will submit 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. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until June 28, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: Lakisha Gregory, Chief, Personnel Security Division either by mail at 99 New York Ave, NE, Washington, DC 20226, by email at *Lakisha.Gregory@atf.gov,* or by telephone at 202–648–9260.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* New collection.

2. *The Title of the Form/Collection:* Financial History Questionnaire.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 8620.28.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable): None.

Abstract: The Financial History Questionnaire—ATF Form 8620.28 will be used to determine if a candidate for Federal or contractor employment at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), satisfies all just financial obligations.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,000 respondents will use the form annually, and it will take each respondent approximately 10 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 333 hours, which is equal to 2,000 (# of respondents) * .166667 (20 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 26, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–08940 Filed 4–28–21; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. *Intuit Inc., et al.;* Response to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the Response to Public Comments on the Proposed Final Judgment in *United States* v. *Intuit Inc., et al.,* Civil Action No. 1:20–cv–03441–ABJ, which was filed in the United States District Court for the District of Columbia on April 23, 2021, together with a copy of the one comment received by the United States.

A copy of the comment and the United States' response to the comment is available at *https://www.justice.gov/atr/case/us-v-intuit-inc-and-credit-karma-inc.* A copy of the comment and the United States' response are available for inspection at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may also be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

United States District Court for the District of Columbia

United States of America, *Plaintiff,* v. Intuit Inc., and Credit Karma, Inc., *Defendants.* Civil Action No.: 1:20–cv–03441–ABJ

Response of Plaintiff United States to Public Comment on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (the ''APPA'' or ''Tunney Act''), 15 U.S.C. 16, the United States hereby responds to the one public comment received regarding the proposed Final Judgment in this case. After careful consideration of the submitted comment, the United States continues to believe that the divestiture required by the proposed Final Judgment provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is therefore in the public interest. The United States will move the Court for entry of the Amended Proposed Final Judgment after the public comment and this response have been published as required by 15 U.S.C. 16(d).

I. Procedural History

On February 24, 2020, Intuit Inc. (''Intuit'') agreed to acquire Credit Karma, Inc. (''Credit Karma'') (collectively, ''Defendants'') for approximately $7.1 billion. After a thorough and comprehensive investigation, the United States filed a civil antitrust Complaint against Defendants on November 25, 2020, seeking to enjoin the proposed transaction because it would likely substantially lessen competition for the development, provision, operation, and support of digital do-it-yourself (''DDIY'') tax preparation products that help individuals file U.S. federal and state income tax returns (''DDIY tax preparation products''), in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. *See* Dkt. No. 1.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order (''Stipulation and Order'') in which the United States and Defendants consent to entry of the proposed Final Judgment after compliance with the requirements of the APPA. *See* Dkt. Nos. 2–2, 2–1. On December 1, 2020, the Court entered the Stipulation and Order. *See* Dkt. No. 3. On December 8, 2020, the divestiture contemplated by the proposed Final Judgment was effectuated to Square, Inc. (''Square''). Pursuant to requirements under the APPA, the United States filed the Competitive Impact Statement on December 10, 2020, describing the transaction and the proposed Final Judgment. *See* Dkt. Nos. 3, 10. On December 16, 2020, the United States published the Complaint, proposed Final Judgment, and Competitive Impact Statement in the **Federal Register***, see* 85 FR 81501 (Dec. 16, 2020), and caused notice regarding the same, together with directions for the submission of written comments relating to the proposed Final Judgment, to be published in *The Washington Post* from December 15, 2020, through December 21, 2020. The 60-day period for public comment ended on February 19, 2020. The United States received one comment concerning the allegations in the Complaint, attached as Exhibit 1. On March 9, 2021, the United States filed a Joint Notice of Amended Proposed Final Judgment (the ''Joint Notice''), attaching an Amended Proposed Final Judgment as Exhibit 1. *See* Dkt. Nos. 13, 13–1. As stated in the Joint Notice, the Amended Proposed Final Judgement addresses a technical clarification to the original proposed Final Judgment to allow Intuit to comply with its obligations under its Memorandum of Understanding with the Internal Revenue Service (IRS) in connection with Intuit's participation in the IRS Free File program. *See* Dkt. No. 13 at pp. 1, 3. The Amended Proposed Final Judgment is identical in all respects to the original proposed Final Judgment except for the change to Paragraph IV(O)(2), which has been made for the limited purpose of permitting Intuit to comply with obligations to the IRS. *See* Dkt. 13 at p. 4.

II. The Complaint and the Amended Proposed Final Judgment

The Complaint alleges that Intuit's proposed acquisition of Credit Karma would likely eliminate existing head-to-head competition between Intuit's DDIY tax preparation business, TurboTax, and Credit Karma's DDIY tax preparation business, Credit Karma Tax (''CKT''). Specifically, CKT has been an important competitive constraint on Intuit's TurboTax, and such head-to-head competition has led to lower prices and increased quality for DDIY tax preparation products. The Complaint also alleges that, absent the merger, the competition between TurboTax and

CKT would intensify as CKT continues to grow and erode Intuit's substantial base of TurboTax customers. The proposed acquisition, if left unremedied, would reduce existing and future competition, resulting in higher prices, lower quality, and reduced choice for the DDIY tax preparation products upon which millions of American consumers rely, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The Amended Proposed Final Judgment is designed to remedy the likely harm to competition alleged in the Complaint by requiring a divestiture that will establish an independent, economically viable competitor. Under the Amended Proposed Final Judgment, Defendants are required to divest CKT, as well as other related tangible and intangible assets, to an acquirer approved by the United States, in such a way as to satisfy the United States, in its sole discretion, that the divestiture assets can and will be operated by the acquirer as a viable, ongoing business that can compete effectively in the market for DDIY tax preparation products. Intuit proposed Square as the acquirer. After a rigorous evaluation, the United States approved Square as the acquirer. Square is a well-financed company with a popular and expanding consumer finance platform called Cash App. Square will offer the divestiture assets as a new DDIY tax preparation product via Cash App.[1]

The Amended Proposed Final Judgment also allows the acquirer, at its option, to enter into a transition services agreement with Defendants for a period of up to 24 months. As explained in the Competitive Impact Statement, this option gives the acquirer sufficient time to integrate the divestiture assets into its existing business and to ensure customers can smoothly transition from CKT to the acquirer. *See* Dkt. No. 10 at 9.

III. Standard of Judicial Review

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (DC Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in APPA settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable'').

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not '''make de novo determination of facts and issues.''' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (DC Cir. 1993); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted).

''The court should bear in mind the *flexibility* of the public interest inquiry: The court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Id.* at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'') (internal citations omitted); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '' *Microsoft,* 56 F.3d at 1461 (quoting *W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its

[1] *See* Square's Q4 2020 Shareholder Letter at 16, *available at https://s27.q4cdn.com/311240100/files/doc_financials/2020/q4/2020-Q4-Shareholder-Letter-Square.pdf* (last visited March 25, 2021) (''In the fourth quarter, we completed our acquisition of Credit Karma Tax for $50 million, which we intend to incorporate into the Cash App ecosystem as a tax filing product for individuals.'').

complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using consent judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the APPA). This language explicitly wrote into the statute what Congress intended when it first enacted the APPA in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

IV. Summary of Comment and the United States' Response

The United States received one public comment in response to the proposed Final Judgment. The comment is from Travis Curtis, a Credit Karma Tax user and former TurboTax user and employee. Mr. Curtis's overarching concern is that Square will not effectively compete with nor constrain Intuit. More specifically, the concerns raised in the comment can be grouped into three categories: (1) Concerns with Square as the acquirer; (2) adequacy of the provisions within the proposed Final Judgment; and (3) dissatisfaction with Intuit's company history. Upon review, the United States believes that nothing in the comment warrants a change to the proposed Final Judgment or supports a conclusion that the Amended Proposed Final Judgment is not in the public interest. As required by the APPA, the comment, with the author's contact information removed, and this response will be published in the **Federal Register**.

a. Square Has the Means and Incentive To Compete Effectively

Mr. Curtis expresses concern with Square as the approved acquirer and contends that Square does not meet the criteria for a divestiture buyer outlined in the proposed Final Judgment. In support of that contention, Mr. Curtis states that Square's available customer base is smaller than Credit Karma's customer base; Square's user demographics are less-aligned with the tax-paying population than are Credit Karma's user demographics; and the divestiture assets do not have ''any clear or immediate benefits'' to Square's business model. Exhibit 1 at 1–2.

Square meets the criteria outlined in the Amended Proposed Final Judgment. Paragraph IV.D. of the Amended Proposed Final Judgment requires divestiture to an acquirer that ''has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the development, provision, operation, and support of digital do-it-yourself personal United States federal or state income tax return preparation and e-filing products and services.'' The United States rigorously evaluated Square, including its qualifications, experience, incentives, business plans, finances, and commercial relationships. Based on that evaluation, the United States concluded that Square is capable, willing, and incentivized to compete effectively and will preserve competition in the market for DDIY tax preparation products.

Although Square operates a multi-billion-dollar business with a variety of financial solutions for businesses and consumers, Mr. Curtis questions Square's ability to compete in the market for DDIY tax preparation products. Specifically, he suggests that Square is an unacceptable purchaser because its consumer-facing platform, Cash App, has a smaller and different user base than Credit Karma's broad consumer-facing platform. As a result, Mr. Curtis contends, Square will have less opportunity than Credit Karma to advertise the CKT DDIY tax product to existing users.

There is no basis for this concern. Although Square may have a smaller user base for its personal finance products than Credit Karma, Square has the ability to market the divestiture assets to tens of millions of existing users. Moreover, Square has grown its Cash App user base tenfold over the past four years, demonstrating its marketing and customer-acquisition capabilities.[2] Square's existing consumer-facing products—and experience in those markets—will enhance, rather than hinder, Square's ability to compete in the market for DDIY tax preparation products.

Mr. Curtis also questions Square's commitment to competing in the market for DDIY tax preparation products. Specifically, he suggests that Square is an unacceptable acquirer because ''CKT does not have any clear or immediate benefits to the Square model.'' Exhibit 1 at 1–2. The United States assessed Square's business plans and incentives to compete and found that Square has the incentive to maintain the level of premerger competition in the market for DDIY tax preparation products.

The United States determined that the addition of DDIY tax preparation capabilities is consistent with Square's stated strategy and past business practices. The United States' assessment was confirmed by Square in a recent filing with the Securities and Exchange Commission, in which Square stated that it ''see[s] the launch and advertising of new Cash App features as an important way to attract new customers'' and offers certain features for free to encourage use of the platform.[3]

Mr. Curtis also suggests selling the divestiture assets to the IRS instead of Square to remedy perceived failings of the Free File Alliance program. However, any alleged failings of the Free File Alliance program are outside the scope of the United States' merger review, the violations alleged in the Complaint, and the present APPA proceedings. *See U.S. Airways,* 38 F.

[2] *See* Square's Q4 2020 Shareholder Letter at 4, *available at https://s27.q4cdn.com/311240100/files/doc_financials/2020/q4/2020-Q4-Shareholder-Letter-Square.pdf* (last visited March 25, 2021).

[3] *See* Square's 2020 10–K at 12, *available at https://s27.q4cdn.com/311240100/files/doc_financials/2020/q4/Square-10K-2020.pdf* (last visited March 25, 2021).

Supp. 3d at 76 (‘‘ ‘Moreover, the Court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint. . . .’ ’’) (quoting *United States* v. *Graftech Int’l,* No. 10–cv–2039, 2011 WL 1566781, at *13 (D.D.C. Mar. 24, 2011)).

b. The Divestiture Gives Square Everything Necessary To Preserve Competition

Mr. Curtis contends that, regardless of the identity of the approved acquirer, the provisions of the proposed Final Judgment are inadequate. He then lists a variety of additional provisions that ostensibly should have been included in the proposed Final Judgment. Exhibit 1 at 2. This is incorrect, however. The divestiture gives Square everything necessary to preserve competition.

First, Mr. Curtis notes that there are ‘‘[n]o requirements for transitioning the log-in and account environment required to separate CKT accounts from CK accounts with minimal burden to the consumer.’’ Exhibit 1 at 2. However, the Amended Proposed Final Judgment allows customers to seamlessly access their CKT accounts after Square’s purchase of the divestiture assets. Under Paragraph II.F.8. of the Amended Proposed Final Judgment, Square is receiving ‘‘all records and data,’’ including customer accounts, as part of the divestiture. For the Year 1 Period defined in the Amended Proposed Final Judgment, and pursuant to Paragraphs IV.M.2., IV.M.4., and IV.M.5. of the Amended Proposed Final Judgment, CKT users will continue to have access to their accounts through the same links that they have always used. Paragraph IV.L. provides Square with the option to receive transition services related to, among other things, data migration and technology infrastructure, to ensure that Square can make users’ account data available once the divestiture assets are integrated with Square’s platform.

Second, Mr. Curtis complains that ‘‘[m]any of the commitments of the Defendant, such as how long they must keep the CKT link on CK, are for only 2 years.’’ Exhibit 1 at 2. The restrictions on the Defendants’ behavior that Mr. Curtis seeks to extend are time-limited for an important reason. They are designed to allow a smooth transition of the divestiture assets to the acquirer without creating ongoing entanglements, which could dampen competition between Defendants and acquirer. A longer time period would unnecessarily compromise Square’s independence.

Third, Mr. Curtis advocates for prohibiting the transfer of customer consents under Section 7216 of the Internal Revenue Code and Treasury Regulations thereunder. Exhibit 1 at 2. In fact, the Amended Proposed Final Judgment does not impose any transfer requirement. Instead, Defendants are required to support the acquirer’s efforts in obtaining such consents from customers during the Year 1 Period, as defined in the proposed Final Judgment. *See* Dkt. No. 2–2 at ¶ IV.M.3 & Dkt. No. 13–1 at ¶ IV.M.3. This arrangement gives Square the opportunity to more fully integrate data from the CKT business into the other features of its Cash App platform if the customer consents, putting Square in the same position as CKT.

Finally, Mr. Curtis also implies that additional measures proscribing Defendants’ and acquirer’s activities going forward should be included in the proposed Final Judgment, such as limiting Defendants’ use of ‘‘paid search terms or other forms of advertising and marketing’’; requiring long-term investment commitments from the acquirer; and limiting partnerships between Defendants and the acquirer in ‘‘industries outside of DDIY tax prep.’’ Exhibit 1 at 2.

These additional proscriptions are unnecessary. First, the Amended Proposed Final Judgment is not intended to weaken or limit Intuit; it is intended to position Square to compete as effectively as CKT. Therefore, it is not necessary to restrict Intuit’s marketing activities following its acquisition of Credit Karma. Second, the United States typically does not attempt to limit an acquirer’s ability to resell the divestiture assets, because ‘‘[c]onditions change over time’’ and ‘‘[t]he market for corporate control is imperfect.’’ [4] Instead, the United States insists that ‘‘the purchaser have both the intention and ability to compete in the market for the foreseeable future.’’ [5] Similarly, because conditions change over time, the United States is not well-positioned to make business decisions, such as investment levels, for the acquirer after it assumes control of the divestiture assets. Finally, it is not necessary to limit partnerships between Defendants and Square in industries that are not implicated by the proposed transaction because Square has every incentive to use the divestiture assets to compete and succeed in the market for DDIY tax preparation products.

The proposed Final Judgment is the result of a thorough investigation, during which the United States scrutinized Defendants’ and the acquirer’s businesses and operations to identify a full complement of assets, personnel, and rights needed to preserve competition in the market for DDIY tax preparation products. The divestiture gives Square everything necessary to preserve competition.

c. Comments Regarding Intuit’s History Are Beyond the Scope of This Action

Mr. Curtis also notes dissatisfaction with aspects of Intuit’s company history. These concerns go beyond the allegations in the United States’ Complaint and are thus beyond the scope of APPA review. *See U.S. Airways,* 38 F. Supp. 3d at 76 (‘‘ ‘Moreover, the Court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint. . . .’ ’’) (quoting *Graftech,* 2011 WL 1566781, at *13).

V. Conclusion

After careful consideration of the public comment, the United States continues to believe that the Amended Proposed Final Judgment provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is therefore in the public interest. The United States will move this Court to enter the Final Judgment after the comment and this response are published as required by 15 U.S.C. 16(d).

Dated: April 23, 2021.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

/s/

Brian Hanna,

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EXHIBIT 1

From: [Redacted]

To: ATR-Antitrust—Internet (ATR)

Subject: Public Comment on *U.S.* V. *INTUIT INC. AND CREDIT KARMA, INC.*

Date: Friday, February 5, 2021 5:36:41 p.m.

To Whom It May Concern,

My name is Travis Curtis and I write to add public comment to the case *United States* v. *Intuit Inc. and Credit Karma, Inc.* according to the Tunney Act. I write today as a taxpayer, DDIY tax prep software user, Credit Karma

[4] *See* U.S. Department of Justice, Antitrust Division Merger Remedies Manual, at 30–31 (Sept. 2020), (*https://www.justice.gov/atr/page/file/1312416/download*).

[5] *See id.* at 30.

Tax user, former TurboTax user and employee. I worked for four tax seasons at Intuit TurboTax as a Business Data Analyst. I have also worked at other financial services and tech companies as a data analyst in valuation, operations, marketing, and product. I say this to provide background and for transparency sake as my concerns are honest and sincere and I would like them to be treated as such.

The Proposed Final Judgement states, ''D. The divestiture must be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the development, provision, operation, and support of digital do-it-yourself personal United States federal or state income tax return preparation and e-filing products and services.'' I believe that Square does not meet these requirements for an eligible Acquirer and that the Proposed Final Judgement comes short in its requirements and does not adequately provide protection to the consumer for the following reasons:

1. Credit Karma Tax would be moving from a business with 100 million customers to Square's CashApp which is roughly 30 million, more than a two thirds reduction in the available customer base to advertise within the platform.

2. Square user demographic aligns with the tax paying population much less than Credit Karma, which would result in a further reduction of customer base. Poor match of user demographic. CK provides credit scores so one can safely assume a large % of the user base overlaps with the tax paying base. Square provides B2B products to small businesses and provides money transfer services to consumers with CashApp, its largest offering by number of users. This service is marketed to a younger and lower income demographic, including students, often as a substitute to a bank account. Both of these factors lead me to assume the % of the Square user base that can and would use CKT is much smaller

3. Loss of supportive business model. CKT data directly benefits and feeds into the CK business model and revenue generation. CKT does not have any clear or immediate benefits to the Square model. The lead of Square's Cash App, Brian Grassadonia, has stated, ''We're thrilled to bring this easy-to-use tax product to customers as we continue to build out the suite of tools Cash App offers. With this acquisition, we believe Cash App will be able to ease customers' burden of preparing taxes every year.''; however, that is the most firm commitment or reasoning announced by Square.

I would like to do a more formal analysis of these two businesses; however, there is little publicly available information and the Competitive Impact Statement provides no details, no metrics, and no analysis of the businesses to support the conclusion that Square meets the requirements of an Acquirer. There is nothing about how much of the CKT customer base came from the CK customer base, retention rates, new customer attraction rates, analysis of marketing channels, the entire document is devoid of any analysis of impact. I am not a lawyer nor do I have any experience with these documents; however, I expected some sort of justification for the decision.

Regardless of the chosen acquirer, I believe that the Proposed Final Judgement's requirements, limitations, and enforcement of the parties fall short in the following ways:

1. No requirements for transitioning the log-in and account environment required to separate CKT accounts from CK accounts with minimal burden to the consumer.

2. Many of the commitments of the Defendant, such as how long they must keep the CKT link on CK, are for only 2 years.

3. Signed 7216 waivers/consents should not transfer over at all.

4. No limitations on the Defendant on paid search terms or other forms of advertising and marketing. As of today, Jan 14th 2021, Intuit has paid to get the top result for the term ''credit karma tax''.

5. No requirements or commitments from the Acquirer to invest or continue business long term.

6. No limitations on other partnerships between Intuit and the Acquirer industries outside of DDIY tax prep.

These inadequacies in the Proposed Final Judgement at worst allow for blatant corruption as nothing prevents Intuit and Square from having colluded together on this to get rid of CKT and at best do little to ensure the continued success of CKT. While I make no assertion about motives, I cannot help be concerned by the lack of protection provided to CKT, taxpayers, and consumers. Technology companies have been given a large amount of leeway when it comes to regulation out of fear of stifling innovation; however, this has created a completely opaque environment where those same technology companies are taking advantage of the situation.

The following hypothetical scenario would be completely possible under the Proposed Final Judgement: Intuit acquires Credit Karma and sells Credit Karma Tax to Square. Intuit then adds a button to the Credit Karma website directing customers to the TurboTax site to get their taxes done by a tax professional. Since the Proposed Final Judgement only places limitations of DDIY tax preparation software and the current link from CK to CKT, there is nothing to prevent them from adding a new button that links to non-DDIY tax preparation solutions, such as the new TurboTax Live Full Service product which Intuit has launched for the fiscal year 2020 tax season. That change could take place any moment. Credit Karma Tax has also benefited from being able to market to the Credit Karma user base; however, under the rules, Credit Karma Tax will only have access to advertise to the CKT customer base, from 100 million customers to ~2 million, a 98% reduction. After 2 years, even the existing button from Credit Karma to CKT can be changed to go to TurboTax. Worst of all is the possibility that the sale to Square could be paid off elsewhere. Both Intuit and Square are primarily B2B companies, not B2C; Intuit maintains Quickbooks and Square maintains their B2B POS hardware business. Even if Square didn't want CKT at all, Intuit could easily make up the sale price of CKT to Square by offering a deal or partnership between other, and franky larger, business units as the proposed rules only limit further partnerships between Square and Intuit in the DDIY tax prep space. Since Intuit is now entering the prepared taxes industry with TurboTax Live Full Service, they could even create a partnership in that space without violating the terms laid out. In the end, Intuit would be able to acquire Credit Karma, get rid of a major competitor in CKT, and even get paid $50 million dollars along the way.

While I want to believe in the good intentions of all involved, I cannot overlook the context of the moment and the history of the actors involved. In 2010, Inuit was sued by the DOJ for employee antitrust violations, in 2019 and 2020 there was much reporting about Intuit's efforts to hide their IRS Free File product from the consumer, and currently Intuit is trying to settle a class action for the same issues with a value that would leave compensation at ~$2.10 per impacted customer. Intuit has also failed to innovate within the Free File Alliance product, a provision of the MOU, for years.

If there truly is concern about ensuring consumers continue to have a

free DDIY tax prep solution, there should be consideration to sell Credit Karma Tax to the IRS so that the IRS may directly provide this service to the American people for free. The $50 million sale would account for <0.5% of the IRS's operating budget. While this may be an extreme suggestion to some, I believe it is time that the American taxpayers get what they were promised when the industry successfully lobbied and created the Free File Alliance. The FFA program has been a failure since its creation and this is a once in a lifetime opportunity to fix it and truly put the taxpayer first, all for less than one half of a percent of the IRS budget.

Sincerely,

Travis Curtis.

[FR Doc. 2021–08971 Filed 4–28–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board; Notice of Meeting

This notice announces a forthcoming meeting of the National Institute of Corrections (NIC) Advisory Board. At least one portion of the meeting will be closed to the public.

Name of the Committee: NIC Advisory Board.

General Function of the Committee: To aid the National Institute of Corrections in developing long-range plans, advise on program development, and recommend guidance to assist NIC's efforts in the areas of training, technical assistance, information services, and policy/program development assistance to Federal, state, and local corrections agencies.

Date and Time: 2:00–5:00 p.m. EDT on Wednesday, May 26, 2021: 2:00–5:00 p.m. EDT on Thursday, May 27, 2021 (approximate times).

Location: Virtual Platform.

Contact Person: Leslie LeMaster, Executive Assistant, National Institute of Corrections, 320 First Street NW, Room 901–3, Washington, DC 20534. To contact Ms. LeMaster, please call (303) 338–6620.

Agenda: On May 26–27, 2021, the Advisory Board will: (1) Receive a brief Agency Report from the NIC Acting Director, (2) receive project-specific updates from both the NIC prisons and jails divisions, and (3) receive a Subcommittee Report related to the identification of potential NIC Director candidates. Time for questions and counsel from the Board is built in to the agenda.

Procedure: On May 26, 2021, from 2:00 p.m. until 5:00 p.m. and on May 27, 2021, from 2:00 p.m. until 4:00 p.m., the meeting is open to the public. Interested persons may request to attend virtually, present data, information, or views, orally or in writing, on issues pending before the committee. Such requests must be made to the contact person on or before May 14, 2021. Oral presentations from the public will be scheduled between approximately 4:00 p.m. to 4:15 p.m. on May 26, 2021. Time allotted for each presentation may be limited. Those who wish to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 14, 2021.

Closed Committee Deliberations: On May 27, 2021, between 4:00 p.m. and 5:00 p.m., the meeting will be closed to permit discussion of information that (1) relates solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and (2) is of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The Advisory Board will discuss the outcomes of the subcommittee's review of potential candidates for the position of Director of the National Institute of Corrections and make determinations as to the Advisory Board's recommendations to the U.S. Attorney General.

General Information: NIC welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Leslie LeMaster at least 7 days in advance of the meeting. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Shaina Vanek,

Acting Director, National Institute of Corrections.

[FR Doc. 2021–08918 Filed 4–28–21; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Agency Information Collection Activities; Comment Request; EARN Perspectives of Jobseekers With Disabilities: The Impact of Employer Messaging

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the DOL is soliciting public comments regarding this ODEP-sponsored information collection to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments pertaining to this information collection are due on or before June 28, 2021.

ADDRESSES:

Electronic submission: You may submit comments and attachments electronically at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Mail submission: 200 Constitution Ave. NW, Room S–5315, Washington, DC 2020. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the DOL, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the DOL's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (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.

FOR FURTHER INFORMATION CONTACT: Lou Orslene by telephone at 202–693–7928 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Employer Assistance and Resource Network on Disability Inclusion (EARN) is a resource for employers seeking to recruit, hire, retain, and advance qualified employees with disabilities. EARN assists employers through online support and a range of education and outreach activities, including webinars, a website with employer-focused resources such as toolkits, a monthly e-newsletter, social media posts, and training videos. It is funded by the U.S. Department of Labor's Office of Disability Employment Policy under a

cooperative agreement with Cornell University.

Phase 1 of the EARN Rapid Cycle Research (RCR) process asked employers about current approaches to online outreach to people with disabilities, the effectiveness of these approaches, their information needs related to online outreach, and remaining priority information needs. Building on this gap assessment relating to employer outreach and people with disabilities, there are two issues not previously addressed and worth further examination under the next phase of the EARN RCR process. These are:

1. How to increase self-identification of disability status in the recruitment process, and

2. Understanding why jobseekers with disabilities may choose to apply (or not) to an organization.

In both cases, employers who participated in the RCR focus groups were interested in hearing directly from jobseekers/employees with disabilities about what might influence these decisions. This project will query individuals with disabilities about their impressions of messaging from organizations, specifically related to career pages on the company website(s). This inquiry directly builds from the EARN Year One RCR-related efforts in conducting a literature review on online recruitment of and outreach to people with disabilities, as well as a report from a review of 40 Fortune 500 company career pages. Employers made it clear that, given limited resources, a strong case needs to be made for innovations in this process, and, if only a few things can be changed, they want to understand what will be most impactful in facilitating applicants with disabilities to apply for their positions and to identify as a person with a disability. Findings will be used to add the needed critical perspective of people with disabilities to the development of resources for employers related to effective online outreach to people with disabilities. These resources will be available on the EARN website and promoted throughout extensive networks of employer national and international professional associations that are partnered with EARN.

Study objectives:

- To build understanding from an applicant's perspective of how employer messaging in the online outreach process impacts key outcomes related to recruiting people with disabilities;
- To provide information and resources informed by the perspectives of people with disabilities that will support organizations in improving messaging in cost-effective ways.

This information collection is subject to the Paperwork Reduction Act (PRA). A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

The DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an Information Collection Review cannot be for more than three (3) years without renewal. The DOL notes that currently approved information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

Agency: DOL–ODEP.

Type of Review: New information collection.

Title of Collection: EARN Perspectives of Jobseekers with Disabilities: the Impact of Employer Messaging.

OMB Control Number: 1230–0NEW.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 200.

Frequency: Once.

Total Estimated Number of Responses: 200.

Total Estimated Annual Time Burden: 16.7 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Dated: April 20, 2021.

Jennifer Sheehy,

Deputy Assistant Secretary, Office of Disability Employment Policy.

[FR Doc. 2021–08932 Filed 4–28–21; 8:45 am]

BILLING CODE 4510–FK–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Current Population Survey Disability Supplement

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 1, 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.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (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.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The July 2021 CPS Disability Supplement will be conducted at the request of the Department of Labor's Chief Evaluation Office. The Disability Supplement will provide information on the low labor force participation rates for people with disabilities; the use of and satisfaction with programs that prepare people with disabilities for employment; the work history, barriers to employment, and workplace accommodations reported by persons with a disability; and the effect of financial assistance programs on the likelihood of working. Since the supplement was last collected in 2019, work patterns have changed, policies have changed, and assistive technologies have advanced due to the coronavirus (COVID–19) pandemic. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 15, 2021 (86 FR 4129).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an

information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–BLS.

Title of Collection: Current Population Survey Disability Supplement.

OMB Control Number: 1220–0186.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 55,000.

Total Estimated Number of Responses: 106,000.

Total Estimated Annual Time Burden: 8,833 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 22, 2021.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2021–08934 Filed 4–28–21; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Requirements of a Bona Fide Thrift or Savings Plan and Requirements of a Bona Fide Profit-Sharing Plan or Trust

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Wage and Hour Division (WHD)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 1, 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.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (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.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This information collection applies to employers claiming the overtime exemption available under section 7(e)(3)(b) of the Fair Labor Standards Act. Specifically, in calculating an employee's regular rate of pay, an employer need not include contributions made to a bona fide thrift or savings plan or a bona fide profit-sharing plan or trust—as defined in 29 CFR parts 547 and 549. Employers are required to communicate, or make available to the employees, the terms of the bona fide thrift or savings plan and bona fide profit-sharing plan or trust, and retain certain records. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 30, 2020 (85 FR 68934).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–WHD.

Title of Collection: Requirements of a Bona Fide Thrift or Savings Plan and Requirements of a Bona Fide Profit-Sharing Plan or Trust.

OMB Control Number: 1235–0013.

Affected Public: Private Sector, Businesses or other for-profits, Farm, Not-for-profits institutions.

Total Estimated Number of Respondents: 1,575,829.

Total Estimated Number of Responses: 2,127,369.

Total Estimated Annual Time Burden: 1,182 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Crystal Rennie,

PRA Senior Analyst.

[FR Doc. 2021–08933 Filed 4–28–21; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Center for Advancing Policy on Employment for Youth (CAPE-Youth) Data Collection

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Disability Employment Policy (ODEP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 1, 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.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of

the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (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.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: In FY 2019 DOL's ODEP funded a four-year cooperative agreement for CAPE-Youth. CAPE-Youth is focused on supporting state efforts to align state workforce systems to establish pathways toward careers and financial self-sufficiency for youth and young adults with disabilities (Y&YAD). The ultimate goal of CAPE-Youth is to improve transition and employment related outcomes for Y&YAD through the identification and dissemination of evidence-based practices. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 24, 2020 (85 FR 75039).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ODEP.

Title of Collection: Center for Advancing Policy on Employment for Youth (CAPE-Youth) Data Collection.

OMB Control Number: 1230–0NEW.

Affected Public: Individuals or Households; State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 1,623.

Total Estimated Number of Responses: 1,623.

Total Estimated Annual Time Burden: 1,567 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 22, 2021.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2021–08936 Filed 4–28–21; 8:45 am]

BILLING CODE 4510–FK–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Permanent Employment Certification

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 1, 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.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (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.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Under the Immigration and Nationality Act (INA), sections 203(b)(2) and (b)(3) and 212(a)(5)(A), and 8 U.S.C. 1153(b)(2) and (b)(3) and 1182(a)(5)(A), DOL and the U.S. Department of Homeland Security (DHS) have promulgated regulations to implement provisions of the INA at 20 CFR part 656 and 8 CFR 204.5. Consequently, the Secretary of Labor must certify that any foreign worker seeking to enter the United States for the purpose of performing skilled or unskilled labor is not adversely affecting wages and working conditions of U.S. workers similarly employed and that there are not sufficient U.S. workers able, willing, qualified, and available to perform such skilled or unskilled labor. In addition, before an employer may employ any skilled or unskilled foreign labor, it must submit a request for certification to the Secretary of Labor satisfying the requirements prescribed by the INA and the applicable regulations, except in limited circumstances where a foreign national without an employer sponsor may apply for a National Interest Waiver with DHS. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 20, 2020 (85 FR 43877).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Application for Permanent Employment Certification.

OMB Control Number: 1205–0451.

Affected Public: Private Sector—Businesses or other for-profits, not-for-profit institutions, and farms.

Total Estimated Number of Respondents: 80,496.

Total Estimated Number of Responses: 675,123.

Total Estimated Annual Time Burden: 234,296 hours.

Total Estimated Annual Other Costs Burden: $132,150.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 22, 2021.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2021–08935 Filed 4–28–21; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0060]

Methylene Chloride Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Methylene Chloride Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by June 28, 2021.

ADDRESSES:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (OSHA–2011–0060). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collection of information in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Standard protects workers from the adverse health effects that may result from their exposure to methylene chloride (MC). The requirements in the Standard include worker exposure monitoring, notifying workers of their MC exposures, administering medical examinations to workers, providing examining physicians with specific program and worker information, ensuring that workers receive a copy of their medical examination results, maintaining workers' exposure monitoring and medical examination records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected workers, and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The agency is requesting an adjustment increase in the number of burden hours from 56,276 to 61,814.83 hours (a total increase of 5,538.83 hours). The increase is a result the agency's estimate, based on updated data, that the number of establishments and workers affected by the Standard has increased.

Type of Review: Extension of a currently approved collection.

Title: Methylene Chloride (29 CFR part 1910.1052).

OMB Control Number: 1218–0179.

Affected Public: Business or other for-profits.

Number of Respondents: 84,595.

Frequency of Responses: On occasion.

Total Responses: 236,462.

Average Time per Response: Annually; semi-annually; quarterly; on occasion.

Estimated Total Burden Hours: 61,814.83.

Estimated Cost (Operation and Maintenance): $20,375,527.20.

IV. Public Participation—Submission of Comments on This Notice and internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. Please note: While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the

Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0060). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Fredrick, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 22, 2021.

James S. Frederick,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–08931 Filed 4–28–21; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Education and Human Resources (#1119) (Virtual Meeting)

Date and Time: May 26, 2021; 12:00 p.m.–5:00 p.m.; May 27, 2021; 11:00 a.m.–5:00 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue. Alexandria, VA 22314 To attend the virtual meeting, all visitors must register at least 48 hours prior to the meeting.at: *https://nsf.zoomgov.com/webinar/register/WN_UHLnLDeIRwy5_IxC3FmFtw.* The final meeting agenda will be posted to: *https://www.nsf.gov/ehr/advisory.jsp.*

Type of Meeting: Open.

Contact Person: Keaven M. Stevenson, National Science Foundation, 2415 Eisenhower Avenue, Room C11001, Alexandria, VA 22314; (703) 292–8600/*kstevens@nsf.gov.*

Summary of Minutes: Minutes and meeting materials will be available on the EHR Advisory Committee website at *http://www.nsf.gov/ehr/advisory.jsp* or can be obtained from Dr. Nafeesa Owens, National Science Foundation, 2415 Eisenhower Avenue, Room C11000, Alexandria, VA 22314; (703) 292–8600; *ehr_ac@nsf.gov.*

Purpose of Meeting: To provide advice with respect to the Foundation's science, technology, engineering, and mathematics (STEM) education and human resources programming.

Agenda

Wednesday, May 26, 202; 12:00 p.m.–5:00 p.m.

- Welcoming Remarks from the EHR AC Chair & the EHR Assistant Director
- Session 1: Aligning Agency-Wide Broadening Participation and Racial Equity Efforts
- Session 2: Monitoring Broadening Participation Efforts
- Session 3: Finding Central Themes around Broadening Participation Research Activities

Thursday, May 27, 2020; 11:00 a.m.–5:00 p.m.

- Session 4: Reporting Results from a Committee of Visitors
- Session 5: Funding Opportunities in Support of Equity
- Session 6: Revisiting EHR's Name
- Discussions with NSF Leadership and Closing Remark

Dated: April 26, 2021.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2021–08944 Filed 4–28–21; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket No. N2021–1; Order No. 5875]

Service Standard Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request for an advisory opinion on the service standards for First-Class Mail and end-to-end Periodicals. This document invites public comments on the request and addresses several related procedural steps.

DATES: *Notices of intervention are due:* May 5, 2021; *Live WebEx Technical Conference:* April 30, 2021, at 11:00 a.m., Eastern Daylight Time, Virtual.

ADDRESSES: Submit notices of intervention electronically via the Commission's Filing Online system at *http://www.prc.gov.* Persons interested in intervening who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Pre-Filing Issues
III. The Request
IV. Initial Administrative Actions
V. Ordering Paragraphs

I. Introduction

On April 21, 2021, the Postal Service filed a request for an advisory opinion from the Commission regarding planned changes to the service standards for First-Class Mail and end-to-end Periodicals.[1] The intended effective date of the Postal Service's planned changes is no earlier than September 1, 2021. Request at 2. The Request was filed pursuant to 39 U.S.C. 3661 and 39 CFR part 3020. Before issuing its advisory opinion, the Commission shall accord an opportunity for a formal, on-the-record hearing pursuant to 5 U.S.C. 556 and 557. 39 U.S.C. 3661(c). This Order provides information on the Postal Service's planned changes, explains and

[1] United States Postal Service Request for an Advisory Opinion on Changes in the Nature of Postal Services, April 21, 2021 (Request).

establishes the process for the on-the-record hearing, and lays out the procedural schedule to be followed in this case.

II. Pre-Filing Issues

On March 23, 2021, the Postal Service published a ten-year strategic plan announcing potential changes intended to achieve financial stability and service excellence.[2] In conjunction with this publication, the Postal Service also filed a notice of its intent to conduct a pre-filing conference regarding its proposed changes to the service standards for First-Class Mail and end-to-end Periodicals, which would ''generally affect service on a nationwide or substantially nationwide basis.'' [3] Further, the Postal Service announced that it would propose amendments to the existing service standards for First-Class Mail and end-to-end Periodicals appearing in 39 CFR part 121. *See* Notice at 1; *see also* Request at 1.[4]

On March 24, 2021, the Commission issued Order No. 5848, which established Docket No. N2021–1 to consider the Postal Service's proposed changes, notified the public concerning the Postal Service's pre-filing conference, and appointed a Public Representative.[5] Due to the COVID–19 pandemic, the Postal Service held its pre-filing conference virtually on April 6, 2021, from 1:00 p.m. to 3:00 p.m. Eastern Daylight Time (EDT). *See* Request at 2; *see also* Notice at 1, 4. The Postal Service asserts that it completed the pre-filing requirements appearing in 39 CFR 3020.111 and certifies that it has made a good faith effort to address concerns of interested persons about the Postal Service's proposal raised at the pre-filing conference. *See* Request at 2.

III. The Request

A. The Postal Service's Planned Changes

The Postal Service plans for these changes to become effective no earlier than September 1, 2021. *See id.* at 2. For First-Class Mail within the contiguous United States, the Postal Service states that its proposal would narrow the scope of the existing 2-Day and 3-Day standards; instead 4-Day and 5-Day standards would apply to certain First-Class Mail traveling longer distances between origin and destination. *See id.* at 3.

The Postal Service states that most First-Class Mail volume will be unaffected by the proposed changes. *See id.* at 4. It observes that First-Class Mail subject to the existing 1-Day (Overnight) service standard will not be affected. *See id.* at 3–4. Overall, the Postal Service asserts that approximately 70 percent of First-Class Mail volume would be subject to the proposed 1-Day, 2-Day, or 3-Day service standards; approximately 21 percent of First-Class Mail volume would be subject to the proposed 4-Day service standard; and approximately 10 percent of First-Class Mail volume would be subject to the proposed 5-Day service standard.[6]

The Postal Service plans to apply a 3–6-Day standard to certain end-to-end Periodicals merged with First-Class Mail for surface transportation, specifying that the Periodicals standard would equal the sum of 1 day plus the applicable First-Class Mail service standard. *See id.* at 6.

Specifically, the Postal Service proposes to apply the following standards to First-Class Mail.

[2] *See* United States Postal Service, Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence, March 23, 2021, at 3, available at, *https://about.usps.com/what/strategic-plans/delivering-for-america/assets/USPS_Delivering-For-America.pdf* (Postal Service's Strategic Plan). Further information related to the Postal Service's Strategic Plan is available at, *https://about.usps.com/what/strategic-plans/delivering-for-america/.*

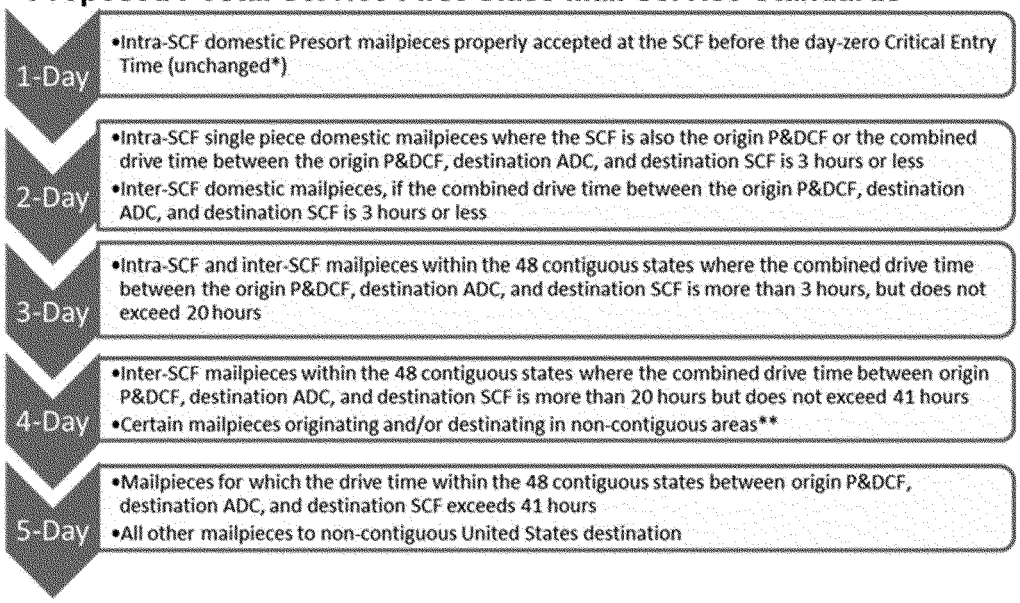
[3] Notice of Pre-Filing Conference, March 23, 2021, at 1 (Notice) (quoting 39 U.S.C. 3661(b)).

[4] These proposed changes were published in the **Federal Register** on April 23, 2021 and are available for public review at, *https://www.govinfo.gov/content/pkg/FR-2021-04-23/pdf/2021-08463.pdf?utm_source=federalregister.gov&utm_medium=email&utm_campaign=subscription+mailing+list.*

[5] Notice and Order Concerning the Postal Service's Pre-filing Conference, March 24, 2021, at 1–2, 4 (Order No. 5848).

[6] *See id.* at 4. These figures total 101 percent due to rounding.

Figure 1
Proposed Postal Service First-Class Mail Service Standards



Notes:

* The existing First-Class Mail 1-Day service standard is codified in 39 CFR 121.1(a)(2).
** Specifically, this refers to the following:

- Mailpieces originating in the contiguous 48 states destined to the city of Anchorage, Alaska, the 968 3-Digit ZIP Code area in Hawaii, or the 006, 007, or 009 3-Digit ZIP Code areas in Puerto Rico.
- Mailpieces originating in the 006, 007, or 009 3-Digit ZIP Code areas in Puerto Rico and the destination is in the contiguous 48 states.
- Mailpieces originating in Hawaii and the destination is in Guam, or vice versa.
- Mailpieces originating in Hawaii and the destination is in American Samoa, or vice versa.
- Mailpieces for which both the origin and destination are within Alaska.

Request at 5-6.

"SCF" refers to "Sectional Center Facility." *Id.* at 3. With respect to a particular SCF, "Intra-SCF" refers to mailpieces that originate and destinate within the 3-Digit ZIP Code areas assigned to that SCF in the Domestic Mail Manual and "Inter-SCF" refers to mailpieces that originate outside those 3-Digit ZIP Code areas. Revised Service Standards for Market-Dominant Mail Products, 77 Fed. Reg. 31,190, 31,194, n.12 (May 25, 2012) (codified at 39 CFR pt. 121). "P&DCF" refers to Processing & Distribution Center or Facility. Notice at 2. "ADC" refers to Area Distribution Center. *Id.*

Source: Request at 3-6.

B. The Postal Service's Position

The Postal Service states that the existing service standards do not reflect declining mail volumes and that attempting to meet the existing service standards has led to high costs, transportation inefficiencies, and difficulties in providing reliable and consistent service performance. *See* Request at 6. The Postal Service explains that transporting mail by surface (trucks) is more reliable and cost-effective than air transportation. *See id.* at 7. The Postal Service asserts that the proposed changes would allow the Postal Service to use surface rather than air transportation for more mailpieces between additional Postal Service origin and destination processing facilities (OD Pairs). *See id.* at 3, 7–8. The Postal Service states that the proposed changes could generate a net improvement to the Postal Service's finances of approximately $174.8 million annually, when considering transportation cost savings. *See id.* at 9.

The Postal Service asserts that implementing the proposed changes would enable it to: Provide more reliable and consistent service performance, improve its ability to run according to its operating plans and optimize its surface transportation network, increase its use of more cost-effective air carriers for volume that will continue to be transported by air (such as volume destined for non-contiguous areas), achieve significant cost savings due to the creation of a more efficient transportation network, and implement future operational benefits. *See id.* at 6–9. It adds that the proposed changes are a key component of the Postal Service's Strategic Plan, intended to achieve financial stability and service excellence. *See id.* at 9–10.

Further, the Postal Service asserts that the proposed changes achieve the

objectives of 39 U.S.C. 3691(b)(1) better than the existing service standards. *See id.* at 10–12. The Postal Service contends that it has taken into account the factors set forth in 39 U.S.C. 3691(c), including the broader policies of title 39, United States Code, as required by 39 U.S.C. 3691(c)(8). *See id.* at 10–13. The Postal Service discusses how it will continue to satisfy the universal service provisions appearing in 39 U.S.C. 101, 403, and 3661(a) under the proposed service standards. *See id.*

C. The Postal Service's Direct Case

The Postal Service is required to file its direct case along with the Request. *See* 39 CFR 3020.114. The Postal Service's direct case includes all of the prepared evidence and testimony upon which the Postal Service proposes to rely on in order to establish that its proposal accords with and conforms to the policies of title 39, United States Code. *See id.* The Postal Service provides the direct testimony of five witnesses and identifies a sixth individual to serve as its institutional witness and provide information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses.

Table 1
Postal Service Witnesses

Witness	Topic(s)	Designation
1. **Robert Cintron**	The Postal Service's ability to meet the existing service standards, the proposed service standard changes and their benefits	USPS-T-1
2. **Curtis Whiteman**	The Postal Service's financial situation and the estimated financial impact of the proposed changes on the Postal Service's financial situation (including estimated cost savings and the estimated net financial impact)	USPS-T-2
3. **Stephen Hagenstein**	How the proposed service standard changes would affect current mail volume in the contiguous United States (including the actual changes to the OD Pairs)	USPS-T-3
4. **Steven Monteith**	How the proposed service standard changes may impact customer satisfaction and the tools/techniques used by the Postal Service to communicate with its customers regarding the proposed service standard changes	USPS-T-4
5. **Thomas Thress**	Econometric analysis to estimate the potential contribution impact that could result from implementing the proposed service standard changes	USPS-T-5
6. **Sharon Owens**	Institutional witness capable of providing information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses	None filed

Source: Request at 2, 4, 6-9.

Additionally, the Postal Service filed eight library references, six of which are available to the public and two of which are designated as non-public material.

Table 2
Postal Service Library References

Designation	Title	Sponsoring Witness
• **LR-N2021-1-1**	Model Input Data	Stephen Hagenstein
• **LR-N2021-1-2**	Model Defining Tools	Stephen Hagenstein
• **LR-N2021-1-3**	Model Results	Stephen Hagenstein
• **LR-N2021-1-4**	Calculating Transportation Cost Changes	Curtis Whiteman
• **LR-N2021-1-5**	Econometric Analysis of Impact of Delivery Service Standards on First-Class Mail and Periodicals Mail	Thomas Thress
• **LR-N2021-1-6**	Informed Visibility Service Performance Metrics (Enterprise Analytics) Data	Robert Cintron
• **LR-N2021-1-NP1**	Model Input Data & Tools	Stephen Hagenstein
• **LR-N2021-1-NP2**	Calculating Transportation Cost Changes	Curtis Whiteman

Note: The Postal Service filed the two non-public library references under seal (shaded in the above table), asserting that they consist of detailed volume and cost information regarding purchased transportation as well as data that reveal volume, modes of transportation, and transportation windows for competitive products. *See* Notice of United States Postal Service of Filing of Library References and Application for Non-Public Treatment, April 21, 2021, Application of the Postal Service for Non-Public Treatment, at 1.

Source: Notice of United States Postal Service of Filing of Library References and Application for Non-Public Treatment, April 21, 2021.

IV. Initial Administrative Actions

A. General Procedures

The procedural rules in 39 CFR part 3020 apply to Docket No. N2021–1. Before issuing its advisory opinion, the Commission shall accord an opportunity for a formal, on-the-record hearing pursuant to 5 U.S.C. 556 and 557. 39 U.S.C. 3661(c). The Commission will sit *en banc* for Docket No. N2021–1. *See* 39 CFR 3020.122(b). Due to the COVID–19 pandemic, the Commission is conducting all business, including any hearing or public meeting for Docket No. N2021–1 virtually and not in person.

B. Scope

Docket No. N2021–1 is limited in scope to the specific changes proposed by the Postal Service in its Request. *See* 39 CFR 3020.102(b). To the extent that participants raise alternative proposals and present reasons why those alternatives may be superior to the Postal Service's proposal, the Commission would interpret such discussion as critiquing the specific changes proposed by the Postal Service in its Request.[7] However, the Commission would not evaluate or opine on the merits of such alternative proposal in its advisory opinion. *See* Order No. 2080 at 18. Pursuant to its discretion, the Commission may undertake evaluation of alternatives or other issues raised by participants in separate proceedings (such as special studies or public inquires). *See* 39 CFR 3020.102(b). Moreover, any interested person may petition the Commission to initiate a separate proceeding (such as a rulemaking or public inquiry) at any time. *See* 39 CFR 3010.201(b) (initiation of notice and comment proceedings).

C. Procedural Schedule

The Commission establishes a procedural schedule, which appears below the signature of this Order. *See* 39 CFR 3010.151, 3020.110; *see also* 39 CFR part 3020 Appendix A. These dates may be changed only if good cause is shown, if the Commission later determines that the Request is incomplete, if the Commission determines that the Postal Service has significantly modified the Request, or for other reasons as determined by the Commission. *See* 39 CFR 3020.110(b) and (c).

D. How To Access Material Filed in This Proceeding

1. Using the Commission's Website

The public portions of the Postal Service's filing are available for review on the Commission's website (*http://www.prc.gov*). The Postal Service's electronic filing of the Request and prepared direct evidence effectively serves the persons who participated in the pre-filing conference. *See* 39 CFR 3020.104. Other material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on

[7] *See* Docket No. RM2012–4, Order Adopting Amended Rules of Procedure for Nature of Service Proceedings Under 39 U.S.C. 3661, May 20, 2014, at 18 (Order No. 2080).

how to file and access non-public material appear in 39 CFR part 3011.

2. Using Methods Other Than the Commission's Website

The Postal Service must serve hard copies of its Request and prepared direct evidence ''only upon those persons who have notified the Postal Service, in writing, during the pre-filing conference(s), that they do not have access to the Commission's website.'' 39 CFR 3020.104. If you demonstrate that you are unable to effectively use the Commission's Filing Online system or are unable to access the internet, then the Secretary of the Commission will serve material filed in Docket No. N2021–1 upon you via First-Class Mail. *See* 39 CFR 3010.127(b) and (c). You may request physical service by mailing a document demonstrating your need to the Office of Secretary and Administration, Postal Regulatory Commission, 901 New York Avenue NW, Suite 200, Washington, DC 20268–0001. Service may be delayed due to the impact of the COVID–19 pandemic. Pursuant to 39 CFR 3010.127(c), the Secretary shall maintain a service list identifying no more than two individuals designated for physical service of documents for each party intervening in this proceeding. Accordingly, each party must ensure that its listing is accurate and should promptly notify the Secretary of any errors or changes. *See* 39 CFR 3010.127(c).

E. How To File Material in This Proceeding

1. Using the Commission's Filing Online System

Except as provided in 39 CFR 3010.120(a), all material filed with the Commission shall be submitted in electronic format using the Filing Online system, which is available over the internet through the Commission's website. The Commission's website accepts filings during the Commission's regular business hours, which are from 8:00 a.m. through 4:30 p.m. EDT, except for Saturdays, Sundays, and Federal holidays. A guide to using the Filing Online system, including how to create an account, is available at: *https://www.prc.gov/how-to-participate.* If you have questions about how to use the Filing Online system, please contact the dockets clerk by email at *dockets@prc.gov* or telephone at (202) 789–6847. Please be advised that the dockets clerk can only answer procedural questions but may not provide legal advice or recommendations.

2. Using Methods Other Than the Commission's Filing Online System

Material may be filed using a method other than the Commission's website only if at least one of the following exceptions applies:

- The material cannot reasonably be converted to electronic format,
- The material contains non-public information (*see* 39 CFR part 3011),
- The filer is unable to effectively use the Commission's Filing Online system and the document is 10 pages or fewer, or
- The Secretary has approved an exception to the requirements to use the Commission's Filing Online system based on a showing of good cause.

39 CFR 3010.120(a).

Material subject to these exceptions may be filed by mail to the Office of Secretary and Administration, Postal Regulatory Commission, 901 New York Avenue NW, Suite 200, Washington, DC 20268–0001. Due to the agency's virtual status, posting mailed materials to the Commission's website may be delayed. Accordingly, before mailing materials, it is strongly recommended that individuals contact the dockets clerk by email at *dockets@prc.gov* or telephone at (202) 789–6847.

F. Technical Conference

1. Date and Purpose

A technical conference will be held live via WebEx on April 30, 2021, at 11:00 a.m. EDT.[8] The technical conference is an informal, off-the-record opportunity to clarify technical issues as well as to identify and request information relevant to evaluating the Postal Service's proposed changes. *See* 39 CFR 3020.115(c). At the technical conference, the Postal Service will make available for questioning its five witnesses whose direct testimony was filed along with the Request and a sixth individual to serve as its institutional witness, who will provide information relevant to the Postal Service's proposal that is not provided by other Postal Service witnesses. *See* Request at 2, 4, 6–9; *see also* 39 CFR 3020.113(b)(6)–(7), 3020.115(b). The names and topics to which these six individuals are prepared to address are summarized above in Section III.C., Table 2, *infra.*

2. How To Participate in the Technical Conference

To participate in this live technical conference and have the opportunity to ask questions of the Postal Service's six witnesses, an individual need not formally intervene in this docket, but must register in advance as follows. Each individual seeking to participate in the live WebEx using an individual device (*e.g.,* a desktop computer, laptop, tablet, or smart phone) must register by sending an email to *N2021-1registration@prc.gov* with the subject line ''Registration'' by April 27, 2021. In order to facilitate orderly public participation, this email shall provide the following information:

- Your first and last name;
- your email address (to receive the WebEx link);
- whether or not you would like the moderator to allow you the opportunity to question the Postal Service's witness(es), and if so, which witness(es) you would like to question and/or the topic(s) of your question(s); and
- your affiliation (if you are participating in your capacity as an employee, officer, or member of an entity such as a corporation, association, or government agency).

The *N2021-1registration@prc.gov* email address is established solely for the exchange of information relating to the logistics of registering for and participating in the technical conference.[9] No information related to the substance of the Postal Service's Request shall be communicated, nor shall any information provided by participants apart from the list identified above be reviewed or considered. Only documents filed with the Commission's docket system will be considered by the Commission. Before the technical conference, the Commission will email each identified individual a WebEx link, an explanation of how to connect to the technical conference, and information regarding the schedule and procedures to be followed.

3. Availability of Materials and Recording

To facilitate discussion of the matters to be explored at the technical conference, the Postal Service shall, if necessary, file with the Commission any materials not already filed in Docket No. N2021–1 (such as PowerPoint presentations or Excel spreadsheets) that the Postal Service expects to present at the technical conference by April 29, 2021. Doing so will foster an orderly discussion of the matters under consideration and facilitate the ability of individuals to access these materials should technical issues arise for any

[8] Normally, this technical conference would be set for day 10 (Saturday May 1, 2021) and extended to Monday May 3, 2021, in accordance with 39 CFR 3020.103; however, the Commission is taking into account the National Postal Forum scheduled for May 3 and 4, 2021.

[9] Please refer to the Commission's privacy policy which is available at, *https://www.prc.gov/privacy.*

participants during the live WebEx. After the live WebEx, if feasible, the Commission shall make the recording available and provide notice of where to access it in this docket. Participants in the WebEx, by participating, consent to such recording and posting. Information obtained during the technical conference or as a result of the technical conference is not part of the decisional record, unless admitted under the standards of 39 CFR 3010.322. *See id.* section 3020.115(e).

G. How To Intervene (Become a Party to This Proceeding)

To become a party to this proceeding, a person or entity must file a notice of intervention by May 5, 2021.[10] This filing must clearly and concisely state: The nature and extent of the intervenor's interest in the issues (including the postal services used), the intervenor's position on the proposed changes in services (to the extent known), whether or not the intervenor requests a hearing, and whether or not the intervenor intends to actively participate in the hearing. *See* 39 CFR 3010.142(b). Page one of this filing shall contain the name and full mailing address of no more than two persons who are to receive service, when necessary, of any documents relating to this proceeding. *See id.* A party may participate in discovery; file testimony and evidence; conduct written examination of witnesses; conduct limited oral cross-examination; file briefs, motions, and objections; and present argument before the Commission or the presiding officer. *See id.* sections 3010.142(a); 3020.122(e). An opposition to a notice of intervention is due within 3 days after the notice of intervention is filed. *See id.* section 3010.142(d)(2).

H. Discovery

1. Generally Applicable Discovery Procedures

Discovery requests may be propounded upon filing a notice of intervention. Discovery that is reasonably calculated to lead to the admissible evidence is allowed. *See id.* section 3020.116(a). Each answer to a discovery request is due within 7 days after the discovery request is filed.[11] Any motion seeking to be excused from answering any discovery request is due within 3 days after the discovery request is filed. *See* 39 CFR 3020.105(b)(1). Any response to such motion is due within 2 days after the motion is filed. *See id.* section 3020.105(b)(2). The Commission expects parties to make judicious use of discovery, objections, and motions practice, and encourages parties to make every effort to confer to resolve disputes informally before bringing disputes to the Commission to resolve.

2. Discovery Deadlines for the Postal Service's Direct Case

All discovery requests regarding the Postal Service's direct case must be filed by May 19, 2021. All discovery answers by the Postal Service must be filed by May 26, 2021. The parties are urged to initiate discovery promptly, rather than to defer filing requests and answers to the end of the period established by the Commission.

I. Rebuttal Case Deadlines

A rebuttal case is any evidence and testimony offered to disprove or contradict the evidence and testimony submitted by the Postal Service. A rebuttal case does not include cross-examination of the Postal Service's witnesses or argument submitted via a brief or statement of position. Any party that intends to file a rebuttal case must file a notice confirming its intent to do so by May 28, 2021. Any rebuttal case, consisting of any testimony and all materials in support of the case, must be filed by June 2, 2021.

J. Surrebuttal Case Deadlines

A surrebuttal case is any evidence and testimony offered to disprove or contradict the evidence and testimony submitted by the rebutting party. A surrebuttal case does not include cross-examination of the rebutting party's witnesses or argument submitted via a brief or statement of position. Any party that intends to file surrebuttal case must obtain the Commission's prior approval. *See* 39 CFR 3020.121(b). Any motion for leave to file a surrebuttal case is due June 4, 2021. Any response to such motion is due June 7, 2021. Any surrebuttal case, consisting of any testimony and all materials in support of the case, must be filed by June 9, 2021.

K. Hearing Dates

If no party files a notice of intent to file a rebuttal case by May 28, 2021, then the hearing of the Postal Service's direct case shall begin June 2, 2021 and end June 4, 2021. If any party files a notice of intent to file a rebuttal case by May 28, 2021 but no surrebuttal testimony will be presented, then the hearing of the Postal Service's direct case shall begin June 9, 2021, and the hearing of the rebuttal case shall end June 11, 2021. If any party files a notice of intent to file a rebuttal case by May 28, 2021, and the Commission approves the presentation of surrebuttal testimony, then the hearing of the Postal Service's direct case shall begin June 14, 2021, and the hearing of the surrebuttal case shall end June 16, 2021.

L. Presentation of Evidence and Testimony

Evidence and testimony shall be in writing and may be accompanied by a trial brief or legal memoranda. *Id.* section 3020.122(e)(1). Whenever possible and particularly for factual or statistical evidence, written cross-examination will be used in lieu of oral cross-examination. *Id.* section 3020.122(e)(2).[12] Oral cross-examination will be allowed to clarify written cross-examination and/or to test assumptions, conclusions, or other opinion evidence. *Id.* section 3020.122(e)(3). Any party that intends to conduct oral cross-examination shall file a notice of intent to do so at least 3 days before the announced appearance of the witness. *Id.* section 3020.122(e)(3).

M. Presentation of Argument

1. General Procedures

Any person that has intervened in Docket No. N2021–1 (and thereby formally became a party to this proceeding) may submit written argument by filing a brief or a statement of position; they also may request to present oral argument at the hearing. *See* 39 CFR 3020.123, *see also* 39 CFR 3010.142(a). Any person that has not intervened in Docket No. N2021–1 may submit written argument by filing a statement of position. *See* 39 CFR 3020.123(g), *see also* 39 CFR 3010.142(a).

2. Presentation of Written Argument

A brief is a written document that addresses relevant legal and evidentiary issues for the Commission to consider and must adhere to the requirements of 39 CFR 3020.123(a)–(f). A statement of position is a less formal version of a brief that describes the filer's position on the Request and the information on the existing record in support of that position. *See* 39 CFR 3020.123(g).

[10] Neither the Public Representative nor the Postal Service must file a notice of intervention; both are automatically deemed parties to this proceeding. *See* 39 CFR 3010.142(a).

[11] *See* 39 CFR 3020.117(b)(4), 3020.118(b)(1), 3020.119(b)(1). Filing an opposition to a notice of intervention shall not delay this deadline. *See* 39 CFR 3010.142(d)(3).

[12] This rule also requires designation of written cross-examination and provision of hard copies. 39 CFR 3020.122(e)(2). The Commission or presiding officer shall provide guidance on designation for a virtual hearing if necessary and in advance of such hearing.

a. Briefing Deadlines

Assuming that no rebuttal case is filed, initial briefs are due June 11, 2021, and reply briefs are due June 18, 2021. If any party files a notice confirming its intent to file a rebuttal case by May 28, 2021, then the briefing schedule may be revised.

b. Deadline for Statement of Position

Any interested person, including anyone that has not filed a notice of intervention and become a party to this proceeding, may file a statement of position. *See* 39 CFR 3020.123(g), *see also* 39 CFR 3010.142(a). A statement of position is limited to the existing record and may not include any new evidentiary material. *See* 39 CFR 3020.123(g). Filings styled as a brief or comments, conforming with the content and timing requirements, shall be deemed statements of positions. Any statement of position is due June 11, 2021.

3. Request To Present Oral Argument

Oral argument has not historically been part of N-cases; the Commission would only grant a request to present oral argument upon an appropriate showing of need by the presenting party. *See* Order No. 2080 at 53. The Commission or presiding officer shall set a deadline for filing a request to present oral argument at the hearing.

N. The Commission's Advisory Opinion

Unless there is a determination of good cause for extension, the Commission shall issue its advisory opinion within 90 days of the filing of the Request. *See* 39 CFR 3020.102(a). Therefore, absent a determination of good cause for extension, the Commission shall issue its advisory opinion in this proceeding by July 20, 2021. ''The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his [or her] judgment the opinion conforms to the policies established under [title 39, United States Code].'' 39 U.S.C. 3661(c). The advisory opinion shall address the specific changes proposed by the Postal Service in the nature of postal services. *See* 39 CFR 3020.102(b).

O. Public Representative

Pursuant to 39 U.S.C. 3661(c), Samuel M. Poole shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding. *See* Order No. 5848 at 4.

V. Ordering Paragraphs

It is ordered:

1. The procedural schedule for this proceeding is set forth below the signature of this order.

2. Pursuant to 39 U.S.C. 3661(c), Samuel M. Poole shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

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Procedural Schedule for Docket No. N2021-1

(Established by the Commission, April 23, 2021)

Technical Conference Dates:	
Deadline to Email *N2021-1registration@prc.gov* to Register to Participate in the Live Technical Conference via WebEx	April 27, 2021
Filing of the Postal Service's Materials for the Technical Conference	April 29, 2021
Technical Conference (live via WebEx)	April 30, 2021, at 11:00 a.m. Eastern Daylight Time
Intervention Deadline:	
Filing of Notice of Intervention	May 5, 2021
Discovery Deadlines for the Postal Service's Direct Case:	
Filing of Discovery Requests	May 19, 2021
Filing of the Postal Service's Answers to Discovery	May 26, 2021
Rebuttal Case Deadlines (if applicable):	
Filing of Notice Confirming Intent to File a Rebuttal Case	May 28, 2021
Filing of Rebuttal Case	June 2, 2021
Surrebuttal Case Deadlines (if applicable):	
Filing of Motion for Leave to File Surrebuttal Case	June 4, 2021
Filing of Response to Motion for Leave to File Surrebuttal Case	June 7, 2021
Filing of Surrebuttal Case (if authorized)	June 9, 2021

Hearing Dates:	
Hearings (with no Rebuttal Case)	June 2 to 4, 2021
Hearings (with Rebuttal Case, but no authorized Surrebuttal Case)	June 9 to 11, 2021
Hearings (with Rebuttal Case and authorized Surrebuttal Case)	June 14 to 16, 2021
Briefing Deadlines:	
Filing of Initial Briefs (with no Rebuttal Case)	June 11, 2021
Filing of Reply Briefs (with no Rebuttal Case)	June 18, 2021
Statement of Position Deadline:	
Filing of Statement of Position (with no Rebuttal Case)	June 11, 2021
Advisory Opinion Deadline:	
Filing of Advisory Opinion (absent determination of good cause for extension)	July 20, 2021

[FR Doc. 2021–08890 Filed 4–28–21; 8:45 am]
BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91663; File No. SR–NYSE–2020–98]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 2, To Amend Its Rules To Prohibit Member Organizations From Seeking Reimbursement, in Certain Circumstances, From Issuers for Forwarding Proxy and Other Materials to Beneficial Owners

April 23, 2021.

On November 30, 2020, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend its rules to prohibit member organizations from seeking reimbursement, in certain circumstances, from issuers for forwarding proxy and other materials to beneficial owners. The proposed rule change was published for comment in the **Federal Register** on December 18, 2020.[3] On January 29, 2021, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On March 17, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposed rule change.[6] On April 6, 2021, the Exchange filed Amendment No. 1 to the proposed rule change; the Exchange withdrew that amendment on April 16, 2021. On April 16, 2021, the Exchange filed Amendment No. 2 to the proposed rule change, which superseded the proposed rule change as originally filed, and is described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to prohibit member organizations from seeking reimbursement from issuers for forwarding proxy and other materials to beneficial owners who received shares from their broker at no cost in connection with a promotion by the broker. This Amendment No. 2 amends and restates the original filing in its entirety.[7] The proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90653 (December 14, 2020), 85 FR 82539 (December 18, 2020). Comments received on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-nyse-2020-98/srnyse202098.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 91011 (January 29, 2021), 86 FR 8246 (February 4, 2021).

[6] *See* Securities Exchange Act Release No. 91343 (March 17, 2021), 86 FR 15536 (March 23, 2021).

[7] The NYSE previously filed a proposed rule filing to amend its rules to prohibit member organizations from seeking reimbursement from issuers for forwarding proxy and other materials to beneficial owners who received shares from their broker at no cost or at a substantially discounted price in connection with a promotion by the broker. *See* SR–NYSE–2020–98 (November 30, 2020). The proposed rule change was published for comment in the **Federal Register** on December 18, 2020. *See* Securities Exchange Act Release No. 90653 (December 14, 2020), 85 FR 82539 (December 18. 2020). On January 29, 2021, pursuant to Section 19(b)(2) of the Exchange Act, the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change. *See* Securities Exchange Act Release No. 91011 (January 29, 2021), 86 FR 8246 (February 4, 2021). By an order dated March 17, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) to determine whether to approve or disapprove the proposed rule change. *See* Securities Exchange Act Release No. 91343 (March 17, 2021),

Continued

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

This Amendment No. 2 amends and restates the original filing in its entirety.[8]

NYSE Rule 451 requires NYSE member organizations that hold securities for beneficial owners in street name to solicit proxies from, and deliver proxy and issuer communication materials to, beneficial owners on behalf of issuers.[9] For this service, issuers reimburse NYSE member organizations for out-of-pocket, reasonable clerical, postage and other expenses incurred for a particular distribution. This reimbursement structure stems from SEC Rules 14b–1 and 14b–2 under the Act,[10] which impose obligations on companies and nominees to ensure that beneficial owners receive proxy materials and are given the opportunity to vote. These rules require companies to send their proxy materials to nominees, *i.e.,* broker-dealers or banks that hold securities in street name, for forwarding to beneficial owners and to pay nominees for reasonable expenses, both direct and indirect, incurred in providing proxy information to beneficial owners. Similarly, Rule 465 requires member organizations to forward issuer communications to beneficial owners on behalf of issuers subject to receipt of reimbursement of expenses.

Recently, brokers providing retail brokerage services have developed a practice in which customers are given securities without charge as a commercial incentive (for example, upon opening a new account or referring a new customer to the broker). Typically, these incentives involve the transfer of a small number of shares to benefiting customers and result in the customer having a position in the company whose shares they receive that has a very small dollar value. Rule 451 does not distinguish between these beneficial owners and beneficial owners that have paid for their shares, so brokers are required to solicit proxies from these accounts and are entitled to reimbursement of their expenses under Rules 451 and 465, as well as pursuant to the applicable rules of any other national securities exchange or national securities association of which the NYSE member organization is a member.[11] As a consequence, issuers are billed under Exchange rules and the rules of other SROs for the reimbursement of expenses the broker incurs in making distributions to these beneficial owners who have very small positions, which they acquired from their broker without any payment by the customer. In certain cases, the issuer can experience a significant increase in its distribution reimbursement expenses solely due to its shares being included in these broker promotional schemes.

While the distribution of shares in these broker promotions may result in a significant increase in the number of beneficial owners of an issuer's stock, the generally very small size of each of these positions means that they usually represent a very small percentage of the voting power. As such, the costs the issuer incurs in reimbursing the broker for distributing proxies to these accounts is very disproportionate to the maximum potential vote such shares represent. By contrast, the broker using such a scheme chooses to engage in it because it believes that it will result in a commercial benefit to the broker. Consequently, the Exchange believes that it is more appropriate for the broker to bear these proxy distribution costs. Accordingly, the Exchange proposes new Rule 451A, which would provide that, notwithstanding the applicable provisions of Rules 451 or 465 or what may be permitted by the rules of any other national securities exchange or national securities association of which a member organization is also a member, no member shall seek to be reimbursed for expenses incurred in connection with the distribution of proxies or other materials on behalf of issuers to the beneficial owners of shares or units of an issuer's securities in a nominee account if those shares or units were transferred to the account holder by the member organization at no cost.

As proposed, Rule 451A would not limit a broker's right to reimbursement for distributions to any beneficial owner if any part of that beneficial owner's position in an issuer's securities was received by any means other than a transfer without charge from the broker. Rules 451 and 465 would continue to apply to all distributions, so the broker would continue to be fully obligated to solicit votes from, and make other distributions on behalf of issuers to, all beneficial owners notwithstanding the limitations on reimbursement of expenses imposed by Rule 451A.

The Exchange's proposal does not limit the right of a broker to receive reimbursement under Rules 451 and 465 unless that broker had itself transferred those shares without charge into the account of the beneficial owner. Specifically, if a beneficial owner transferred shares received in this manner into an account at another broker, Rule 451A would not preclude that other broker from claiming reimbursement under Rules 451 and 465. The Exchange notes that it would be impossible for the receiving broker in these circumstances to track whether the shares of a specific issuer transferred into its custody had all been received by the beneficial owner without charge from another broker. Moreover, that broker would not have received the commercial benefit from the promotional scheme that would accrue to the broker that had given the shares

86 FR 15536 (March 23, 2021). The Exchange previously withdrew Amendment No. 1 to the filing. Amendment No. 1 [sic] is being filed to: (1) Remove from the filing the prohibition on brokers claiming reimbursement from issuers for distributions to any beneficial owner when the shares of the issuer held in such beneficial owner's account were purchased from that broker at a substantially discounted price; (2) explain why the proposal does not apply by its terms to a broker claiming reimbursement for distributions relating to shares that the beneficial owner transferred into an account at such broker from an account at another broker that had transferred those shares to the beneficial owner without charge; and (3) explain why the Exchange believes the proposal is consistent with the requirement of Rules 14b–1 and 14b–2 under the Act that brokers are entitled to receive ''reasonable reimbursement'' for making proxy distributions on behalf of issuers.

[8] *See* note 7 supra for details of how Amendment No. 2 differs from the original filing.

[9] The ownership of shares in street name means that a shareholder, or ''beneficial owner,'' has purchased shares through a broker-dealer or bank, also known as a ''nominee.'' In contrast to direct ownership, where shares are directly registered in the name of the shareholder, shares held in street name are registered in the name of the nominee, or in the nominee name of a depository, such as the Depository Trust Company. For more detail regarding share ownership, *see* Securities Exchange Act Release No. 62495 (July 14, 2010), 75 FR 42982 (July 22, 2010) (Concept Release on the U.S. Proxy System) (''Proxy Concept Release'').

[10] 17 CFR 240.14b–1; 17 CFR 240.14b–2.

[11] *See,* for example, FINRA Rule 2251.

without charge to its customers. For the foregoing reasons, the Exchange believes that it is impracticable to extend the application of Rule 451A to the broker to whom the shares are transferred in these circumstances and that it is reasonable to limit its application to the broker that had chosen to transfer those shares without charge.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act'') generally.[12] Section 6(b)(4)[13] requires that exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using the facilities of an exchange. Section 6(b)(5)[14] requires, among other things, that exchange rules are 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 the public interest and the interests of investors, promote just and equitable principles of trade and that they are not designed to permit unfair discrimination between issuers, brokers or dealers.

The Exchange believes that the proposal is consistent with Sections 6(b)(4) and 6(b)(5) of the Act as it would only limit the reimbursement of distribution expenses in circumstances where a broker distributes the shares to its customers as part of a voluntary promotional strategy by the broker from which it derives a commercial benefit. The Exchange notes that the recipients of shares without charge as part of such schemes typically will not be given any choice as to which shares they receive and are therefore not making any investment decision. As the broker typically has sole control over the allocation of these shares to its customers and derives a commercial benefit from doing so, the Exchange believes that the proposal is not unfairly discriminatory and does not represent an inequitable allocation of the costs of the distribution of proxy and other issuer materials.

The Exchange notes that brokers will continue to be required to distribute proxy and other materials on behalf of issuers notwithstanding the fact that brokers will not be entitled to any reimbursement of expenses and believes that the proposal is therefore consistent with Rules 14b–1 and 14b–2 under the Act, which impose obligations on companies and nominees to ensure that beneficial owners receive proxy materials and are given the opportunity to vote. The Exchange also believes that its proposal is consistent with the requirement of Rules 14b-1 and 14b-2 that brokers are entitled to ''reasonable reimbursement'' of expenses in connection with making proxy distributions on behalf of issuers. First, the Exchange notes that any broker that is prohibited from charging fees under this proposal would continue to be reimbursed for its aggregate expenses with respect to proxy distribution, as the prohibition on distribution fees would be limited to those accounts in which the only shares of the applicable issuer are shares received without charge from that broker. As such, the effect of the proposal would be to reduce the overall reimbursement received by that broker for a distribution, but not to eliminate that reimbursement. The Exchange believes that this reduced level of reimbursement is reasonable in light of the fact that the beneficial owners in question would have received the shares without charge as part of a voluntary commercial scheme initiated by the broker and which the broker undertook because it believed that it was in its own business interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed limitation on distribution expense reimbursement would apply to any broker that adopts a commercial strategy of distributing shares to account holders free of charge. Brokers that adopt this strategy do so because they believe that they derive a commercial and competitive advantage from doing so. As such, the Exchange believes that any burden on competition associated with this proposal is appropriate in light of the fact that brokers will only be subject to any such burden as a consequence of voluntarily adopting a strategy that they believe is beneficial for their business. There would be no effect on the competition among issuers resulting from the proposed rule change, as all issuers would benefit from the proposed restriction in the same manner if their shares have been distributed without charge as part of such a commercial arrangement.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 2, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2020–98 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSE–2020–98. 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

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–98 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08905 Filed 4–28–21; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91656; File No. SR–BOX–2021–10]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Short Term Option Series Program To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust SM Series ETF Trust

April 23, 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 April 21, 2021, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend IM–5050–6 (Short Term Option Series Program) to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM Series (''QQQ'') ETF Trust. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

[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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend IM–5050–6 (Short Term Option Series Program) to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM Series (''QQQ'') ETF Trust. This is a competitive filing that is based on a proposal recently submitted by Nasdaq Phlx LLC (''Phlx'').[3]

A Short Term Option Series means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.[4] The Exchange is proposing to amend IM–5050–6 to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

Monday Expirations

As proposed, with respect to Monday QQQ Expirations within IM–5050–6(d), the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire (''Monday QQQ Expirations''), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.

Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within IM–5050–6(c), the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (''Wednesday QQQ Expirations''). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.[5] Specifically, the Monday and Wednesday QQQ Expirations will have a $0.50 strike interval minimum.[6] As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expiration series will be P.M.-settled.

Pursuant to BOX Rule 100(a)(65), with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to BOX Rule 100(a)(65), a Wednesday expiration series shall expire on the first business day

[3] *See* Securities Exchange Act Release No. 91238 (March 2, 2021) (Notice of Filing of Proposed Rule Change to Permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM Series (''QQQ'') ETF Trust).

[4] BOX Rule 100(a)(65) provides the term ''Short Term Option Series'' which states that a series in an option class that is approved for listing and trading on BOX in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.

[5] *See* IM–5050–6(b)(5).

[6] *See* IM–5050–6(b)(5).

immediately prior to that Wednesday, *e.g.,* Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are treated in this manner today.[7] Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[8] Also, Nasdaq Phlx LLC (''Phlx'') [9] and Nasdaq ISE, LLC (''ISE'') [10] use the same procedure for options on the Nasdaq-100® (''NDX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively.

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[11] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.[12] This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending IM–5050–6(b)(2), which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class.[13] As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of QQQ Monday and Wednesday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[14] in general, and Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. BOX currently lists Monday and Wednesday SPY Expirations.[16] Also, Cboe [17] currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx [18] and ISE [19] currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are treated in this manner today.[20] Cboe uses the same procedure for SPX

[7] *See* IM–5050–6(d).

[8] *See* Cboe Rule 4.13(e)(1) ''. . . If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.''

[9] *See* Phlx Options 4A, Section 12(b)(5).

[10] *See* ISE Supplementary Material .07 to Options 4A, Section 12.

[11] *See* IM–5050–6(b)(1).

[12] *See* IM–5050–6(b)(1).

[13] *See* current IM–5050–6(b)(2).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* IM–5050–6(c) and (d).

[17] *See* note 8 above.

[18] *See* note 9 above.

[19] *See* note 10 above.

[20] *See* IM–5050–6(d).

options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx and ISE for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in IM–5050–6 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that is appropriate to amend IM–5050–6(b)(2) to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ expirations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by Phlx.[21] The Exchange notes that having Monday and Wednesday QQQ expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on BOX. As noted above, Cboe uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx and ISE for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[24] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[25] The Exchange has stated that waiver of the operative delay will allow the Exchange to list and trade the proposed product immediately, allowing the Exchange to compete with the exchanges that have this product in place. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[26]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2021–10 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–BOX–2021–10. 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

[21] *See supra,* note 3.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 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 intention 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.

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[26] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BOX–2021–10 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08902 Filed 4–28–21; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91668; File No. SR–PEARL–2021–21]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series ("QQQ") ETF Trust

April 23, 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 April 22, 2021, MIAX PEARL, LLC ("MIAX Pearl" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rulebook to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program on the Invesco QQQ Trust℠ Series ("QQQ") ETF Trust.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Policy .02 (Short Term Option Series Program) of Exchange Rule 404, Series of Option Contracts Open for Trading, to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program ("Program") on QQQ.

A Short Term Options Series is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.[3] The Exchange is proposing to amend Policy .02 of Exchange Rule 404 to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

Monday Expirations

As proposed, with respect to Monday QQQ Expirations within Policy .02, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire ("Monday QQQ Expirations"), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.

Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Policy .02, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire ("Wednesday QQQ Expirations"). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.[4] Specifically, the Monday and Wednesday QQQ Expirations will have a $0.50 strike interval minimum.[5] As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expirations series will be P.M.-settled.

Pursuant to Rule 100,[6] with respect to the Program, if Monday is not a business day the series shall expire on the first

[3] *See* Exchange Rulebook, as of Apr. 13, 2021, Rule 100, Definitions, of "Short Term Options Series," available at: *https://www.miaxoptions.com/sites/default/files/page-files/MIAX_Pearl_Exchange_Rules_04132021.pdf.*

[4] *See* Policy .02(e) of Exchange Rule 404.

[5] *Id.*

[6] Rule 100, Definition of "Short Term Option Series."

business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Rule 100,[7] a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Nasdaq PHLX LLC (''Phlx'') uses the same procedure for QQQ with Monday and Wednesday expirations.[8] Nasdaq Phlx [9] and Nasdaq ISE, LLC (''ISE'') [10] also use the same procedure for options on the Nasdaq-100® (''NSX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively. Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[11]

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[12] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term options rules; the Exchange may list these additional series that are listed by other exchanges.[13] This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Policy .02(b) to Rule 404, which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Options Series on the same class.[14] As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. The Exchange currently has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of Monday and Wednesday QQQ Expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ Expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(5) of the Act [16] 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY Expirations.[17] Also, Cboe [18] currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx [19] and ISE [20] currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ Expirations for Short Term Option

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR–Phlx–2021–10).

[9] *See* Phlx Options 4A, Section 12(b)(5).

[10] *See* ISE Supplementary Material .07 to Options 4A, Section 12.

[11] *See* Cboe Rule 4.13(e)(1) ''. . . If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.''

[12] *See* Policy .02 of Exchange Rule 404.

[13] *Supra* note 12.

[14] *See* Policy .02(b) of Exchange Rule 404.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Supra* note 12.

[18] *Supra* note 11.

[19] *Supra* note 9.

[20] *Supra* note 10.

Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are currently treated in this manner.[21] Cboe [22] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx [23] and ISE [24] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in Policy .02 of Exchange Rule 404 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Policy .02 of Rule 404 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ Expirations.

[21] *Supra* note 12.

[22] *Supra* note 11.

[23] *Supra* note 9.

[24] *Supra* note 10.

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 notes that having Monday and Wednesday QQQ Expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on the Exchange.[25] Cboe [26] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx [27] and ISE [28] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [29] and Rule 19b–4(f)(6) thereunder.[30]

[25] *Supra* note 12.

[26] *Supra* note 11.

[27] *Supra* note 9.

[28] *Supra* note 10.

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 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.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [31] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[32] The Exchange stated that waiver of the operative delay is consistent with the protection of investors and the public interest as it would encourage fair competition among exchanges by allowing MIAX Pearl to compete effectively with Phlx by having the ability to list and trade the same Monday and Wednesday QQQ Expirations that Phlx is able to list and trade. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[33]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[33] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2021–21 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–2021–21. 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–2021–21 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08909 Filed 4–28–21; 8:45 am]

BILLING CODE 8011–01–P

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Small Business Capital Formation Advisory Committee will hold a public meeting on Friday, April 30, 2021, via videoconference.

PLACE: The meeting will begin at 10:00 a.m. (ET) and will be open to the public. The meeting will be conducted by remote means (videoconference) and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549. Members of the public may watch the webcast of the meeting on the Commission's website at *www.sec.gov.*

STATUS: On April 16, 2021, the Commission published notice of the Committee meeting (Release No. 33–10938), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

≤**MATTER TO BE CONSIDERED:** The agenda for the meeting includes matters relating to rules and regulations affecting small and emerging businesses and their investors under the federal securities laws.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: April 26, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–09039 Filed 4–27–21; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91667; File No. SR–MIAX–2021–16]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series (''QQQ'') ETF Trust

April 23, 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 April 22, 2021, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rulebook to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program on the Invesco QQQ Trust™ Series (''QQQ'') ETF Trust.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Policy .02 (Short Term Option Series Program) of Exchange Rule 404, Series of Option Contracts Open for Trading, to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Options Series Program (''Program'') on QQQ.

A Short Term Options Series is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.[3] The Exchange is proposing to amend Policy .02 of Exchange Rule 404 to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

Monday Expirations

As proposed, with respect to Monday QQQ Expirations within Policy .02, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire (''Monday QQQ Expirations''), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.

Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Policy .02, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (''Wednesday QQQ Expirations''). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.[4] Specifically, the Monday and Wednesday QQQ Expirations will have a $0.50 strike interval minimum.[5] As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expirations series will be P.M.-settled.

Pursuant to Rule 100,[6] with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Rule 100,[7] a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Nasdaq PHLX LLC (''Phlx'') uses the same procedure for QQQ with Monday and Wednesday expirations.[8] Nasdaq Phlx [9] and Nasdaq ISE, LLC (''ISE'') [10] also use the same procedure for options on the Nasdaq-100® (''NSX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively. Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[11]

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[12] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term options rules; the Exchange may list these additional series that are listed by other exchanges.[13] This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Policy .02(b) to Rule 404, which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Options Series on the same class.[14] As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be

[3] *See* Exchange Rulebook, as of Apr. 13, 2021, Rule 100, Definitions, of ''Short Term Options Series,'' available at: *https://www.miaxoptions.com/sites/default/files/page-files/MIAX_Options_Exchange_Rules_04132021.pdf.*

[4] *See* Policy .02(e) of Exchange Rule 404.

[5] *Id.*

[6] Rule 100, Definition of ''Short Term Option Series.''

[7] *Supra* note 6.

[8] *See* Securities Exchange Act Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR–Phlx–2021–10).

[9] *See* Phlx Options 4A, Section 12(b)(5).

[10] *See* ISE Supplementary Material .07 to Options 4A, Section 12.

[11] *See* Cboe Rule 4.13(e)(1) ''. . . If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.''

[12] *See* Policy .02 of Exchange Rule 404.

[13] *Supra* note 12.

[14] *See* Policy .02(b) of Exchange Rule 404.

encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. The Exchange currently has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of Monday and Wednesday QQQ Expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ Expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(5) of the Act [16] 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is intended to provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY Expirations.[17] Also, Cboe [18] currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx [19] and ISE [20] currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ Expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are currently treated in this manner.[21] Cboe [22] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx [23] and ISE [24] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in Policy .02 of Exchange Rule 404 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Policy .02 of Rule 404 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ Expirations.

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 notes that having Monday and Wednesday QQQ Expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on the Exchange.[25] Cboe [26] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx [27] and ISE [28] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Supra* note 12.

[18] *Supra* note 11.

[19] *Supra* note 9.

[20] *Supra* note 10.

[21] *Supra* note 12.

[22] *Supra* note 11.

[23] *Supra* note 9.

[24] *Supra* note 10.

[25] *Supra* note 12.

[26] *Supra* note 11.

[27] *Supra* note 9.

[28] *Supra* note 10.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [29] and Rule 19b-4(f)(6) thereunder.[30]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [31] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[32] The Exchange stated that waiver of the operative delay is consistent with the protection of investors and the public interest as it would encourage fair competition among exchanges by allowing MIAX Options to compete effectively with Phlx by having the ability to list and trade the same Monday and Wednesday QQQ Expirations that Phlx is able to list and trade. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[33]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2021–16 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–MIAX–2021–16. 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–MIAX–2021–16 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08907 Filed 4–28–21; 8:45 am]

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[29] 15 U.S.C. 78s(b)(3)(A).

[30] 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.

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[33] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91652; File No. SR–CboeBZX–2021–033]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 19.6.05 To Allow Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust ("QQQ")

April 23, 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 April 21, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX Options'') proposes to amend Rule 19.6.05 to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ Trust (''QQQ''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 19.6.05 to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on QQQ. The Exchange notes that this proposed rule change is substantively identical to a rule change recently adopted by Nasdaq Phlx LLC. (''Phlx''), filed with the Securities and Exchange Commission (''Commission'').[5]

Rule 19.6.05 currently governs the Exchange's Short Term Option Series Program. The term ''Short Term Option Series'' means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.[6] Rule 19.6.05(h) provides that the Exchange may open weekly series for options on the SPDR S&P 500 ETF Trust (''SPY'') with Monday and Wednesday expirations. The proposed rule change amends Rule 19.6.05(h) to also allow Monday and Wednesday expiations for options on QQQ. Specifically, the proposed rule change amends Rule 19.6.05(h) to provide that the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPDR S&P 500 ETF Trust (''SPY'') and series of options on the Invesco QQQ Trust (''QQQ'') to expire on any Monday of the month that is a business day and is not a Monday on which Quarterly Options Series expire (''Monday SPY Expirations'' and ''Monday QQQ Expirations''), provided that any Friday on which the Exchange opens for trading a Monday SPY and QQQ Expiration is one business week and one business day prior to expiration. The Exchange may also open for trading on any Tuesday or Wednesday that is a business day series of SPY options and series of QQQ options to expire on any Wednesday of the month that is a business day and is not a Wednesday on which Quarterly Options Series expire (''Wednesday SPY Expirations'' and ''Wednesday QQQ Expirations''). The Exchange may list up to five consecutive series of each Monday SPY and QQQ Expirations and up to five consecutive series of each Wednesday SPY and QQQ Expirations at one time; the Exchange may have no more than a total of five of each Monday SPY and QQQ Expirations and no more than a total of five of each Wednesday SPY and QQQ Expirations. Monday and Wednesday SPY and QQQ Expirations will be subject to the provisions of this Rule.[7] Additionally, the proposed rule change amends Rule 19.6.05(b), which currently excepts Monday and Wednesday SPY Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire, to provide that, with the exception of Monday and Wednesday SPY and QQQ Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire.

The Exchange believes that the introduction of QQQ Monday and Wednesday Expirations will expand hedging tools available to market participants and assist in reducing the premium cost of buying protection. By offering Monday and Wednesday QQQ Expirations, the proposed rule change will allow market participants to purchase QQQ based on their timing needs and allow them to more effectively tailor their investment and hedging strategies.

The Exchange notes that, pursuant to the definition of Short Term Option Series,[8] if the Exchange is not open for business on a Wednesday, then a Wednesday QQQ Expiration will expire on the first business day immediately prior to that Wednesday (*e.g.,* Tuesday of that week). However, regarding Monday QQQ Expirations, if the Exchange is not open for business on a Monday, then a Monday QQQ Expiration will expire on the first business day following that Monday (*e.g.,* Tuesday of that week). This is the same expiration process currently in place for Monday and Wednesday SPY Expirations. The Exchange believes that it is appropriate to require Monday expiration series to expire on the Tuesday of that week, rather than the previous business day (*e.g.,* the previous Friday), when expiration Monday does not fall on a business day because the immediately following Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday. Therefore, the following business day in this case may be more representative of anticipated market conditions than the previous business day. The Exchange notes that, not only are Monday SPY Expirations treated in the same manner today, but the same applies to weekly index options listed pursuant to the Nonstandard Expiration Program.[9] The Exchange also notes that permitting Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same

[5] *See* Securities Exchange Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR–Phlx–2021–10) (Notice of Filing of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM).

[6] *See* Rule 16.1, definition of ''Short Term Option Series''.

[7] The proposed rule change also updates a reference to ''Monday or Wednesday SPY Expirations'' in Rule 19.6.05 to refer to ''Monday or Wednesday SPY and QQQ Expirations''.

[8] *See supra* note 6.

[9] *See* Rule 29.11(j)(1).

class, like that of Monday and Wednesday SPY Expirations, is appropriate because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that listing Monday and Wednesday QQQ Expirations each week of the month will provide consistency for investors and mitigate any potential confusion regarding weekly listings.

The Exchange notes that the interval between strike prices for the proposed Monday and Wednesday QQQ Expirations are the same as those for the Monday and Wednesday SPY Expirations and the Short Term Option Series with Wednesday and Friday expirations.[10] Specifically, the proposed Monday and Wednesday QQQ Expirations have a $0.50 strike interval minimum.[11] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, Monday and Wednesday QQQ Expirations are P.M.-settled. Also, pursuant to Rule 19.6.05(a), the Exchange may open up to 30 Short Term Option Series for each expiration date in each option class eligible for participation in the Short Term Option Series Program. This includes Monday and Wednesday QQQ Expirations for QQQ options. In addition to the 30 series per class, the Exchange may open Short Term Option Series, including Monday and Wednesday QQQ Expirations, that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists weekly series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,[12] and has not experienced any issues regarding adverse market impact in connection with the listing of these series. The Exchange represents that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently deploys such surveillance programs to monitor Monday and Wednesday SPY Expirations and has not experienced any issues with capacity in connection with listing Monday and Wednesday SPY Expirations. The Exchange intends to begin implementation of the proposed rule change on April 23, 2021, as Phlx intends to begin listing weekly Monday QQQ Expirations on this date.[13] The Exchange will issue a notice of the planned implementation date to its Members in advance.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that listing Monday and Wednesday QQQ Expirations, like Monday and Wednesday SPY Expirations already listed for trading, will expand the ability of investors to effectively hedge risk against market movements stemming from economic releases or market events that occur throughout the month. The Exchange believes that offering Monday and Wednesday QQQ Expirations will create greater trading and hedging opportunities and flexibility for investors, allowing them to use QQQ options listed pursuant to the Short Term Option Series Program in a manner more effectively tailored their investment and hedging objectives. As already noted, the Exchange currently offers series with the same settlement (P.M.) and expirations (Monday and Wednesday) for options on SPY and for weekly index options pursuant to the Nonstandard Pilot Program.[17] The Exchange again notes that the proposed rule change is substantively identical to a rule recently adopted by Phlx and filed with the Commission.[18]

The manner in which Monday QQQ Expirations will expire when expiration Monday lands on a holiday is consistent with the manner in which Monday SPY Expirations currently expire under the same circumstances. The Exchange believes that allowing Monday QQQ Expirations that expire on a holiday to fall on the following business day, as opposed to the prior business day (as applicable to Wednesday and Friday expirations that expire on a holiday), removes impediments to and perfects the mechanism of a free and open market and national by permitting such Monday expirations to occur closer in time to the scheduled expiration date of the series, which may be more representative of anticipated market conditions. Additionally, the proposed rule change to except Monday and Wednesday QQQ Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire is consistent with the same exception that currently applies to Monday and Wednesday SPY Expirations.[19] The proposed rule change is designed to provide consistency for investors and mitigate any potential confusion regarding weekly listings each week of the month.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,[20] and has not observed any adverse market impact in connection with the listing of these series. The Exchange represents that it already has an adequate surveillance program in place to detect and deter any manipulative trading in Monday and

[10] *See* Rule 19.6.05(e).

[11] *See id.*

[12] *See supra* note 9.

[13] *See* Options Trader Alert #2021—23, Nasdaq PHLX Introduces Monday and Wednesday Weekly Expirations For QQQ Options (April 12, 2021) available at: *http://www.nasdaqtrader.com/MicroNews.aspx?id=23.* Phlx anticipates listing weekly Wednesday QQQ Expirations on April 27, 2021.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] *See supra* note 9.

[18] *See supra* note 5.

[19] As stated herein, because monthly options expire on Fridays, Monday and Wednesday weekly options will not land on the same day.

[20] *See supra* note 9.

Wednesday expirations, including Monday and Wednesday QQQ Expirations, and that it has the necessary systems capacity to support the listing and trading of the new series.

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 intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Monday and Wednesday QQQ Expirations will be available for quoting and trading on the Exchange for all market participants. Therefore, all market participants will equally be able to transact in QQQ series listed with Monday and Wednesday expirations for trading on the Exchange.

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 as it only impacts the permissible expirations for an option series listed on the Exchange. As stated, another options exchange has recently implemented a substantively identical rule to permit Monday and Wednesday QQQ expirations on its exchange.[21] As such, this proposal is a competitive response that will permit the Exchange to list the same expirations for series in a multiply-listed option as another options exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[24] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five-day prefiling requirement and the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[25] The Exchange has stated that waiver of the five-day prefiling requirement and the 30-day operative delay will allow the Exchange to implement the proposal as a competitive response, permitting the Exchange to list the same expirations for series in a multiply-listed option as another options exchange, at the same time that such options exchange intends to list such series. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the prefiling requirement and the operative delay and designates the proposed rule change operative upon filing.[26]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2021–033 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–2021–033.* 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–2021–033 and should be submitted on or before May 20, 2021.

[21] *See supra* note 5.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 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 intention 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 Commission has waived that requirement in this case.

[24] 17 CFR 240.19b-4(f)(6)(iii).

[25] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[26] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08899 Filed 4–28–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91658; File No. SR–BX–2021–017]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series (''QQQ'') ETF Trust

April 23, 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 April 21, 2021, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series (''QQQ'') ETF Trust.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BX Options 4, Section 5 at Supplementary Material .03 to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program (''Program'') on QQQ. This proposal is identical to a proposal by Nasdaq PHLX LLC (''Phlx'') that was recently approved by the Commission.[3]

A Short Term Option Series means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.[4] The Exchange is proposing to amend BX Options 4, Section 5 at Supplementary Material .03 to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

Monday Expirations

As proposed, with respect to Monday QQQ Expirations within Supplementary Material .03 to Options 4, Section 5, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire (''Monday QQQ Expirations''), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.

Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Supplementary Material .03 to Options 4, Section 5, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (''Wednesday QQQ Expirations''). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.[5] Specifically, the Monday and Wednesday QQQ Expirations will have a $0.50 strike interval minimum.[6] As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expiration series will be P.M.-settled.

Pursuant to Options 1, Section 1(a)(58), with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Options 1, Section 1(a)(58) a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act. [sic] 91614 (April 20, 2021) (SR–Phlx–2021–10) (Order Approving a Proposed Rule Change to Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Options Program on the Invesco QQQ Trust℠ Series ETF Trust).

[4] Options 1, Section 1(a)(58) provides the term ''Short Term Option Series'' means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this Rule for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.

[5] *See* Supplementary Material .03(e) to Options 4, Section 5.

[6] *Id.*

that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are treated in this manner today.[7] Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[8] Also, Nasdaq Phlx LLC (''Phlx'') [9] and Nasdaq ISE, LLC (''ISE'') [10] use the same procedure for options on the Nasdaq-100® (''NDX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively.

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[11] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.[12] This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Supplementary Material .03(b) to Options 4, Section 5, which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class.[13] As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of QQQ Monday and Wednesday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. BX currently lists Monday and Wednesday SPY Expirations.[16] Also, Cboe [17] currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx [18] and ISE [19] currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are treated in this manner today.[20] Cboe [21] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are

[7] *See* Supplementary Material .03 at Options 4, Section 5.

[8] *See* Cboe Rule 4.13(e)(1) ''. . .If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.''

[9] *See* Phlx Options 4A, Section 12(b)(5).

[10] *See* ISE Supplementary Material .07 to Options 4A, Section 12.

[11] *See* Supplementary Material .03(a) to Options 4, Section 5.

[12] *Id.*

[13] *See* current Supplementary Material .03(b) to Options 4, Section 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Supplementary Material .03 at Options 4, Section 5.

[17] *See supra* note 8.

[18] *See supra* note 9.

[19] *See supra* note 10.

[20] *See* Supplementary Material .03 at Options 4, Section 5.

[21] *See supra* note 8.

scheduled to expire on a holiday, as do Phlx [22] and ISE [23] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in Supplementary Material .03 to Options 4, Section 5 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Supplementary Material .03(b) to Options 4, Section 5 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ expirations.

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 notes that having Monday and Wednesday QQQ expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on BX.[24] Cboe [25] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx [26] and ISE [27] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(6) thereunder.[29]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [30] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[31] The Exchange has stated that waiver of the operative delay will permit the Exchange to immediately amend BX Options 4, Section 5 at Supplementary Material .03 to permit the Exchange to offer Monday and Wednesday expirations for options listed pursuant to the Program on QQQ similar to Phlx. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[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 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–BX–2021–017 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–BX–2021–017. This file number should be included on the subject line if email is used. To help the

[22] *See supra* note 9.

[23] *See supra* note 10.

[24] *See* Supplementary Material .03 at Options 4, Section 5.

[25] *See supra* note 8.

[26] *See supra* note 9.

[27] *See supra* note 10.

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 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 intention 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.

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[32] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BX–2021–017 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08903 Filed 4–28–21; 8:45 am]

BILLING CODE 8011–01–P

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91659; File No. SR–CBOE–2021–028]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 4.5(d) To Allow Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust ("QQQ")

April 23, 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 April 21, 2021, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rule 4.5(d) to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ Trust ("QQQ"). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 4.5(d) to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on QQQ. The Exchange notes that this proposed rule change is substantively identical to a rule change recently adopted by Nasdaq Phlx LLC. ("Phlx"), filed with the Securities and Exchange Commission ("Commission").[5]

Rule 4.5(d) currently governs the Exchange's Short Term Option Series Program. Short Term Option Series are weekly series in an option class that is approved for listing and trading on the Exchange, which may be opened for trading on any Thursday or Friday that is a business day and expires that expire at the close of business on each of the next five Fridays that are business days and are not Fridays on which monthly options series or Quarterly Options Series expire. Rule 4.5(d) also provides that the Exchange may open weekly series for options on the SPDR S&P 500 ETF Trust ("SPY") with Monday and Wednesday expirations. The proposed rule change amends Rule 4.5(d) to also allow Monday and Wednesday expiations for options on QQQ. Specifically, the proposed rule change amends Rule 4.5(d) to provide that the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPDR S&P 500 ETF Trust ("SPY") ("Monday SPY Expiration Opening Date")[6] and series of options on the Invesco QQQ Trust ("QQQ") ("Monday QQQ Expiration Opening Date") that expire at the close of business each of the next five Mondays that are business days and are no Mondays on which Quarterly Options Series expire ("Monday SPY Expirations" and "Monday QQQ Expirations"), provided that any Monday SPY and QQQ Expiration Opening Date that is a Friday is one business week and one business day prior to expiration. The Exchange may also open for trading on any Tuesday or Wednesday that is a business day series of SPY options ("Wednesday SPY Expiration Opening Date") and series of QQQ options ("Wednesday QQQ Expiration Opening Date") that expire at the close of business on each of the next five Wednesdays that are business days and are not Wednesdays on which Quarterly Options Series expire ("Wednesday SPY Expirations" and "Wednesday QQQ Expirations"). The Exchange may have no more than a total of five of each Monday SPY and QQQ Expirations and no more than a total of

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR–Phlx–2021–10) (Notice of Filing of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM).

[6] The proposed rule change also relocates certain defined terms within Rule 4.5(d) for additional clarity and ease of understanding.

five of each Wednesday SPY and QQQ Expirations. Non-Monday and non-Wednesday SPY and QQQ Expirations are not included as part of this count. If the Exchange is not open for business on the respective Friday or Monday, the Monday SPY and QQQ Expiration Opening Date will be the first business day immediately prior to that respective Friday or Monday. If the Exchange is not open for business on a Monday, the expiration date for a Monday SPY and QQQ Expiration will be the first business day immediately following that Monday. If the Exchange is not open for business on the respective Tuesday or Wednesday, the Wednesday SPY and QQQ Expiration Opening Date will be the first business day immediately prior to that respective Tuesday or Wednesday. Similarly, if the Exchange is not open for business on a Wednesday, the expiration date for a Wednesday SPY and QQQ Expiration will be the first business day immediately prior to that Wednesday. Additionally, the proposed rule change amends Rule 4.5(d)(2), which currently excepts Monday and Wednesday SPY Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire, to provide that no Short Term Option Series (excluding Monday and Wednesday SPY and QQQ Expirations) may expire in the same week in which monthly option series on the same class expire.

The Exchange believes that the introduction of QQQ Monday and Wednesday Expirations will expand hedging tools available to market participants and assist in reducing the premium cost of buying protection. By offering Monday and Wednesday QQQ Expirations, the proposed rule change will allow market participants to purchase QQQ based on their timing needs and allow them to more effectively tailor their investment and hedging strategies.

The Exchange notes that, pursuant to the proposed rule change, if the Exchange is not open for business on a Wednesday, then a Wednesday QQQ Expiration will expire on the first business day immediately prior to that Wednesday (*e.g.,* Tuesday of that week). However, regarding Monday QQQ Expirations, if the Exchange is not open for business on a Monday, then a Monday QQQ Expiration will expire on the first business day following that Monday (*e.g.,* Tuesday of that week). This is the same expiration process currently in place for Monday and Wednesday SPY Expirations. The Exchange believes that it is appropriate to require Monday expiration series to expire on the Tuesday of that week, rather than the previous business day (*e.g.,* the previous Friday), when expiration Monday does not fall on a business day because the immediately following Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday. Therefore, the following business day in this case may be more representative of anticipated market conditions than the previous business day. The Exchange notes that, not only are Monday SPY Expirations treated in the same manner today, but the same applies to weekly index options listed pursuant to the Nonstandard Expiration Program.[7] The Exchange also notes that permitting Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class, like that of Monday and Wednesday SPY Expirations, is appropriate because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that listing Monday and Wednesday QQQ Expirations each week of the month will provide consistency for investors and mitigate any potential confusion regarding weekly listings.

The Exchange notes that the interval between strike prices for the proposed Monday and Wednesday QQQ Expirations are the same as those for the Monday and Wednesday SPY Expirations and the Short Term Option Series with Wednesday and Friday expirations.[8] Specifically, the proposed Monday and Wednesday QQQ Expirations have a $0.50 strike interval minimum.[9] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, Monday and Wednesday QQQ Expirations are P.M.-settled. Also, pursuant to Rule 4.5(d)(1), the Exchange may open up to 30 Short Term Option Series for each expiration date in each option class eligible for participation in the Short Term Option Series Program. This includes Monday and Wednesday QQQ Expirations for QQQ options. In addition to the 30 series per class, the Exchange may open Short Term Option Series, including Monday and Wednesday QQQ Expirations, that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists weekly series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,[10] and has not experienced any issues regarding adverse market impact in connection with the listing of these series. The Exchange represents that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently deploys such surveillance programs to monitor Monday and Wednesday SPY Expirations and has not experienced any issues with capacity in connection with listing Monday and Wednesday SPY Expirations. The Exchange intends to begin implementation of the proposed rule change on April 23, 2021, as Phlx intends to begin listing weekly Monday QQQ Expirations on this date.[11] The Exchange will issue a notice of the planned implementation date to its Trading Permit Holders (''TPHs'') in advance.[12]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[14] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged

[7] *See* Rule 4.13(e)(1).

[8] *See* Rule 4.5(d)(5).

[9] *See id.*

[10] *See supra* note 7.

[11] *See* Options Trader Alert #2021–23, Nasdaq PHLX Introduces Monday and Wednesday Weekly Expirations For QQQ Options (April 12, 2021) available at: *http://www.nasdaqtrader.com/MicroNews.aspx?id=23*. Phlx anticipates listing weekly Wednesday QQQ Expirations on April 27, 2021.

[12] *See* Rule 1.5, which provides that the Exchange announces to Trading Permit Holders all determinations it makes pursuant to the Rules via: (1) Specifications, Notices, or Regulatory Circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules; (2) electronic message; or (3) other communication method as provided in the Rules.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that listing Monday and Wednesday QQQ Expirations, like Monday and Wednesday SPY Expirations already listed for trading, will expand the ability of investors to effectively hedge risk against market movements stemming from economic releases or market events that occur throughout the month. The Exchange believes that offering Monday and Wednesday QQQ Expirations will create greater trading and hedging opportunities and flexibility for investors, allowing them to use QQQ options listed pursuant to the Short Term Option Series Program in a manner more effectively tailored their investment and hedging objectives. As already noted, the Exchange currently offers series with the same settlement (P.M.) and expirations (Monday and Wednesday) for options on SPY and for weekly index options pursuant to the Nonstandard Pilot Program.[16] The Exchange again notes that the proposed rule change is substantively identical to a rule recently adopted by Phlx and filed with the Commission.[17]

The manner in which Monday QQQ Expirations will expire when expiration Monday lands on a holiday is consistent with the manner in which Monday SPY Expirations currently expire under the same circumstances. The Exchange believes that allowing Monday QQQ Expirations that expire on a holiday to fall on the following business day, as opposed to the prior business day (as applicable to Wednesday and Friday expirations that expire on a holiday), removes impediments to and perfects the mechanism of a free and open market and national by permitting such Monday expirations to occur closer in time to the scheduled expiration date of the series, which may be more representative of anticipated market conditions. Additionally, the proposed rule change to except Monday and Wednesday QQQ Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire is consistent with the same exception that currently applies to Monday and Wednesday SPY Expirations.[18] The proposed rule change is designed to provide consistency for investors and mitigate any potential confusion regarding weekly listings each week of the month.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,[19] and has not observed any adverse market impact in connection with the listing of these series. The Exchange represents that it already has an adequate surveillance program in place to detect and deter any manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, and that it has the necessary systems capacity to support the listing and trading of the new series.

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 intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Monday and Wednesday QQQ Expirations will be available for quoting and trading on the Exchange for all market participants. Therefore, all market participants will equally be able to transact in QQQ series listed with Monday and Wednesday expirations for trading on the Exchange.

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 as it only impacts the permissible expirations for an option series listed on the Exchange. As stated, another options exchange has recently implemented a substantively identical rule to permit Monday and Wednesday QQQ expirations on its exchange.[20] As such, this proposal is a competitive response that will permit the Exchange to list the same expirations for series in a multiply-listed option as another options exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [23] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five-day prefiling requirement and the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[24] The Exchange has stated that waiver of the five-day prefiling requirement and the 30-day operative delay will allow the Exchange to implement the proposal as a competitive response, permitting the Exchange to list the same expirations for series in a multiply-listed option as another options exchange, at the same time that such options exchange intends

[15] *Id.*

[16] *See supra* note 7.

[17] *See supra* note 5.

[18] As stated herein, because monthly options expire on Fridays, Monday and Wednesday weekly options will not land on the same day.

[19] *See supra* note 7.

[20] *See supra* note 5.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 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 Commission has waived that requirement in this case.

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

to list such series. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the prefiling requirement and the operative delay and designates the proposed rule change operative upon filing.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2021–028 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–CBOE–2021–028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–028 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08904 Filed 4–28–21; 8:45 am]

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[25] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91655; File No. SR–CboeEDGX–2021–023]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 19.6.05 To Allow Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust (''QQQ'')

April 23, 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 April 21, 2021, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') proposes to amend Rule 19.6.05 to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ Trust (''QQQ''). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 19.6.05 to allow Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on QQQ. The Exchange notes that this proposed rule change is substantively identical to a rule change recently adopted by Nasdaq Phlx LLC. (''Phlx''), filed with the Securities and Exchange Commission (''Commission'').[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Release No. 91238 (March 2, 2021), 86 FR 13404 (March 8, 2021) (SR–Phlx–2021–10) (Notice of Filing of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ TrustSM).

Rule 19.6.05 currently governs the Exchange's Short Term Option Series Program. The term ''Short Term Option Series'' means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.[6] Rule 19.6.05(h) provides that the Exchange may open weekly series for options on the SPDR S&P 500 ETF Trust (''SPY'') with Monday and Wednesday expirations. The proposed rule change amends Rule 19.6.05(h) to also allow Monday and Wednesday expiations for options on QQQ. Specifically, the proposed rule change amends Rule 19.6.05(h) to provide that the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPDR S&P 500 ETF Trust (''SPY'') and series of options on the Invesco QQQ Trust (''QQQ'') to expire on any Monday of the month that is a business day and is not a Monday on which Quarterly Options Series expire (''Monday SPY Expirations'' and ''Monday QQQ Expirations''), provided that any Friday on which the Exchange opens for trading a Monday SPY and QQQ Expiration is one business week and one business day prior to expiration. The Exchange may also open for trading on any Tuesday or Wednesday that is a business day series of SPY options and series of QQQ options to expire on any Wednesday of the month that is a business day and is not a Wednesday on which Quarterly Options Series expire (''Wednesday SPY Expirations'' and ''Wednesday QQQ Expirations''). The Exchange may list up to five consecutive series of each Monday SPY and QQQ Expirations and up to five consecutive series of each Wednesday SPY and QQQ Expirations at one time; the Exchange may have no more than a total of five of each Monday SPY and QQQ Expirations and no more than a total of five of each Wednesday SPY and QQQ Expirations. Monday and Wednesday SPY and QQQ Expirations will be subject to the provisions of this Rule.[7] Additionally, the proposed rule change amends Rule 19.6.05(b), which currently excepts Monday and Wednesday SPY Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire, to provide that, with the exception of Monday and Wednesday SPY and QQQ Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire.

The Exchange believes that the introduction of QQQ Monday and Wednesday Expirations will expand hedging tools available to market participants and assist in reducing the premium cost of buying protection. By offering Monday and Wednesday QQQ Expirations, the proposed rule change will allow market participants to purchase QQQ based on their timing needs and allow them to more effectively tailor their investment and hedging strategies.

The Exchange notes that, pursuant to the definition of Short Term Option Series,[8] if the Exchange is not open for business on a Wednesday, then a Wednesday QQQ Expiration will expire on the first business day immediately prior to that Wednesday (*e.g.,* Tuesday of that week). However, regarding Monday QQQ Expirations, if the Exchange is not open for business on a Monday, then a Monday QQQ Expiration will expire on the first business day following that Monday (*e.g.,* Tuesday of that week). This is the same expiration process currently in place for Monday and Wednesday SPY Expirations. The Exchange believes that it is appropriate to require Monday expiration series to expire on the Tuesday of that week, rather than the previous business day (*e.g.,* the previous Friday), when expiration Monday does not fall on a business day because the immediately following Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday. Therefore, the following business day in this case may be more representative of anticipated market conditions than the previous business day. The Exchange notes that, not only are Monday SPY Expirations treated in the same manner today, but the same applies to weekly index options listed pursuant to the Nonstandard Expiration Program.[9] The Exchange also notes that permitting Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class, like that of Monday and Wednesday SPY Expirations, is appropriate because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that listing Monday and Wednesday QQQ Expirations each week of the month will provide consistency for investors and mitigate any potential confusion regarding weekly listings.

The Exchange notes that the interval between strike prices for the proposed Monday and Wednesday QQQ Expirations are the same as those for the Monday and Wednesday SPY Expirations and the Short Term Option Series with Wednesday and Friday expirations.[10] Specifically, the proposed Monday and Wednesday QQQ Expirations have a $0.50 strike interval minimum.[11] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, Monday and Wednesday QQQ Expirations are P.M.-settled. Also, pursuant to Rule 19.6.05(a), the Exchange may open up to 30 Short Term Option Series for each expiration date in each option class eligible for participation in the Short Term Option Series Program. This includes Monday and Wednesday QQQ Expirations for QQQ options. In addition to the 30 series per class, the Exchange may open Short Term Option Series, including Monday and Wednesday QQQ Expirations, that are opened by other securities exchanges in option classes selected by such exchanges under their respective short term option rules.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists weekly series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,[12] and has not experienced any issues regarding adverse market impact in connection with the listing of these series. The Exchange represents that it

[6] *See* Rule 16.1, definition of ''Short Term Option Series''.

[7] The proposed rule change also updates a reference to ''Monday or Wednesday SPY Expirations'' in Rule 19.6.05 to refer to ''Monday or Wednesday SPY and QQQ Expirations''.

[8] *See supra* note 6.

[9] *See* Rule 29.11(j)(1).

[10] *See* Rule 19.6.05(e).

[11] *See id.*

[12] *See supra* note 9.

has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently deploys such surveillance programs to monitor Monday and Wednesday SPY Expirations and has not experienced any issues with capacity in connection with listing Monday and Wednesday SPY Expirations. The Exchange intends to begin implementation of the proposed rule change on April 23, 2021, as Phlx intends to begin listing weekly Monday QQQ Expirations on this date.[13] The Exchange will issue a notice of the planned implementation date to its Members in advance.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that listing Monday and Wednesday QQQ Expirations, like Monday and Wednesday SPY Expirations already listed for trading, will expand the ability of investors to effectively hedge risk against market movements stemming from economic releases or market events that occur throughout the month. The Exchange believes that offering Monday and Wednesday QQQ Expirations will create greater trading and hedging opportunities and flexibility for investors, allowing them to use QQQ options listed pursuant to the Short Term Option Series Program in a manner more effectively tailored their investment and hedging objectives. As already noted, the Exchange currently offers series with the same settlement (P.M.) and expirations (Monday and Wednesday) for options on SPY and for weekly index options pursuant to the Nonstandard Pilot Program.[17] The Exchange again notes that the proposed rule change is substantively identical to a rule recently adopted by Phlx and filed with the Commission.[18]

The manner in which Monday QQQ Expirations will expire when expiration Monday lands on a holiday is consistent with the manner in which Monday SPY Expirations currently expire under the same circumstances. The Exchange believes that allowing Monday QQQ Expirations that expire on a holiday to fall on the following business day, as opposed to the prior business day (as applicable to Wednesday and Friday expirations that expire on a holiday), removes impediments to and perfects the mechanism of a free and open market and national by permitting such Monday expirations to occur closer in time to the scheduled expiration date of the series, which may be more representative of anticipated market conditions. Additionally, the proposed rule change to except Monday and Wednesday QQQ Expirations from the prohibition on Short Term Option Series expiring in the same week in which monthly option series on the same class expire is consistent with the same exception that currently applies to Monday and Wednesday SPY Expirations.[19] The proposed rule change is designed to provide consistency for investors and mitigate any potential confusion regarding weekly listings each week of the month.

The Exchange does not believe that listing series of P.M.-settled Monday and Wednesday expirations for options on QQQ will have any adverse impact on fair and orderly markets as the Exchange already lists series with the same settlement and expirations for options on SPY, as well as for weekly index options pursuant to the Nonstandard Pilot Program,[20] and has not observed any adverse market impact in connection with the listing of these series. The Exchange represents that it already has an adequate surveillance program in place to detect and deter any manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, and that it has the necessary systems capacity to support the listing and trading of the new series.

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 intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Monday and Wednesday QQQ Expirations will be available for quoting and trading on the Exchange for all market participants. Therefore, all market participants will equally be able to transact in QQQ series listed with Monday and Wednesday expirations for trading on the Exchange.

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 as it only impacts the permissible expirations for an option series listed on the Exchange. As stated, another options exchange has recently implemented a substantively identical rule to permit Monday and Wednesday QQQ expirations on its exchange.[21] As such, this proposal is a competitive response that will permit the Exchange to list the same expirations for series in a multiply-listed option as another options exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant

[13] *See* Options Trader Alert #2021—23, Nasdaq PHLX Introduces Monday and Wednesday Weekly Expirations For QQQ Options (April 12, 2021) available at: *http://www.nasdaqtrader.com/MicroNews.aspx?id=23*. Phlx anticipates listing weekly Wednesday QQQ Expirations on April 27, 2021.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] *See supra* note 9.

[18] *See supra* note 5.

[19] As stated herein, because monthly options expire on Fridays, Monday and Wednesday weekly options will not land on the same day.

[20] *See supra* note 9.

[21] *See supra* note 5.

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 [22] and Rule 19b–4(f)(6) thereunder.[23]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [24] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five-day prefiling requirement and the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[25] The Exchange has stated that waiver of the five-day prefiling requirement and the 30-day operative delay will allow the Exchange to implement the proposal as a competitive response, permitting the Exchange to list the same expirations for series in a multiply-listed option as another options exchange, at the same time that such options exchange intends to list such series. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the prefiling requirement and the operative delay and designates the proposed rule change operative upon filing.[26]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeEDGX–2021–023 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–CboeEDGX–2021–023. 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–CboeEDGX–2021–023 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08901 Filed 4–28–21; 8:45 am]

BILLING CODE 8011–01–P

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 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 Commission has waived that requirement in this case.

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[26] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91664; File No. SR–NASDAQ–2021–028]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series (''QQQ'') ETF Trust

April 23, 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 April 22, 2021, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series (''QQQ'') ETF Trust.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend The Nasdaq Options Market LLC (''NOM'') rules at Options 4, Section 5 at Supplementary Material .03 to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program (''Program'') on QQQ. This proposal is identical to a proposal by Nasdaq PHLX LLC (''Phlx'') that was recently approved by the Commission.[3]

A Short Term Option Series means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.[4] The Exchange is proposing to amend NOM Options 4, Section 5 at Supplementary Material .03 to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

Monday Expirations

As proposed, with respect to Monday QQQ Expirations within Supplementary Material .03 to Options 4, Section 5, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire (''Monday QQQ Expirations''), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.

Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Supplementary Material .03 to Options 4, Section 5, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (''Wednesday QQQ Expirations''). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.[5] Specifically, the Monday and Wednesday QQQ Expirations will have a $0.50 strike interval minimum.[6] As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expiration series will be P.M.-settled.

Pursuant to Options 1, Section 1(a)(57), with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Options 1, Section 1(a)(57) a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are treated in this manner today.[7] Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[8] Also, Nasdaq Phlx LLC (''Phlx'')[9] and Nasdaq ISE, LLC (''ISE'')[10] use the same procedure for options on the Nasdaq-100® (''NDX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively.

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[11] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.[12] This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Supplementary Material .03(b) to Options 4, Section 5, which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same

[3] *See* Securities Exchange Act. [sic] 91614 (April 20, 2021) (SR–Phlx–2021–10) (Order Approving a Proposed Rule Change to Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Options Program on the Invesco QQQ Trust℠ Series ETF Trust).

[4] Options 1, Section 1(a)(57) provides the term ''Short Term Option Series'' means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.

[5] *See* Supplementary Material .03(e) to Options 4, Section 5.

[6] *Id.*

[7] *See* Supplementary Material .03 at Options 4, Section 5.

[8] *See* Cboe Rule 4.13(e)(1) ''. . . If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.''

[9] *See* Phlx Options 4A, Section 12(b)(5).

[10] *See* ISE Supplementary Material .07 to Options 4A, Section 12.

[11] *See* Supplementary Material .03(a) to Options 4, Section 5.

[12] *Id.*

week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class.[13] As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of QQQ Monday and Wednesday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. NOM currently lists Monday and Wednesday SPY Expirations.[16] Also, Cboe[17] currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx[18] and ISE[19] currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are treated in this manner today.[20] Cboe[21] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx[22] and ISE[23] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in Supplementary Material .03 to Options 4, Section 5 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Supplementary Material .03(b) to Options 4, Section 5 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ expirations.

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 notes that having Monday and Wednesday QQQ expirations is not a

[13] *See* current Supplementary Material .03(b) to Options 4, Section 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Supplementary Material .03 at Options 4, Section 5.

[17] *See supra* note 8.

[18] *See supra* note 9.

[19] *See supra* note 10.

[20] *See* Supplementary Material .03 at Options 4, Section 5.

[21] *See supra* note 8.

[22] *See supra* note 9.

[23] *See supra* note 10.

novel proposal, as Monday and Wednesday SPY Expirations are currently listed on NOM.[24] Cboe[25] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx[26] and ISE[27] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[28] and Rule 19b–4(f)(6) thereunder.[29]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[30] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[31] The Exchange has stated that waiver of the operative delay will permit the Exchange to immediately amend Nasdaq Options 4, Section 5 at Supplementary Material .03 to permit the Exchange to offer Monday and Wednesday expirations for options listed pursuant to the Program on QQQ similar to Phlx. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[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 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–NASDAQ–2021–028 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NASDAQ–2021–028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2021–028 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08906 Filed 4–28–21; 8:45 am]

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[24] *See* Supplementary Material .03 at Options 4, Section 5.

[25] *See supra* note 8.

[26] *See supra* note 9.

[27] *See supra* note 10.

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 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.

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[32] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91654; File No. SR–ISE–2021–07]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series (''QQQ'') ETF Trust

April 23, 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 April 21, 2021, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program on the Invesco QQQ Trust℠ Series (''QQQ'') ETF Trust.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend ISE Options 4, Section 5 at Supplementary Material .03 to permit Monday and Wednesday expirations for options listed pursuant to the Short Term Option Series Program (''Program'') on QQQ. This proposal is identical to a proposal by Nasdaq PHLX LLC (''Phlx'') that was recently approved by the Commission.[3]

A Short Term Option Series means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration.[4] The Exchange is proposing to amend ISE Options 4, Section 5 at Supplementary Material .03 to permit the listing of options series that expire on Mondays and Wednesdays in QQQ.

Monday Expirations

As proposed, with respect to Monday QQQ Expirations within Supplementary Material .03 to Options 4, Section 5, the Exchange may open for trading on any Friday or Monday that is a business day series of options on QQQ to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series on the same class expire (''Monday QQQ Expirations''), provided that Monday QQQ Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Monday QQQ Expirations at one time; the Exchange may have no more than a total of five Monday QQQ Expirations.

Wednesday Expirations

As proposed, with respect to Wednesday QQQ Expirations within Supplementary Material .03 to Options 4, Section 5, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on QQQ to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series on the same class expire (''Wednesday QQQ Expirations''). The Exchange may list up to five consecutive Wednesday QQQ Expirations at one time; the Exchange may have no more than a total of five Wednesday QQQ Expirations.

Monday and Wednesday Expirations

The interval between strike prices for the proposed Monday and Wednesday QQQ Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday expirations applicable to the Program.[5] Specifically, the Monday and Wednesday QQQ Expirations will have a $0.50 strike interval minimum.[6] As is the case with other equity options series listed pursuant to the Program, the Monday and Wednesday QQQ Expiration series will be P.M.-settled.

Pursuant to Options 1, Section 1(a)(49), with respect to the Program, if Monday is not a business day the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. Pursuant to Options 1, Section 1(a)(49) a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week, if the Wednesday is not a business day. For purposes of QQQ, however, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. Monday

[3] *See* Securities Exchange Act. [sic] 91614 (April 20, 2021) (SR–Phlx–2021–10) (Order Approving a Proposed Rule Change to Permit Monday and Wednesday Expirations for Options Listed Pursuant to the Short Term Options Program on the Invesco QQQ Trust℠ Series ETF Trust).

[4] Options 1, Section 1(a)(49) provides the term ''Short Term Option Series'' means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Wednesday or Friday of the following business week that is a business day, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.

[5] *See* Supplementary Material .03(e) to Options 4, Section 5.

[6] *Id.*

SPY expirations are treated in this manner today.[7] Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[8] Also, Nasdaq Phlx LLC (''Phlx'')[9] and the Exchange[10] use the same procedure for options on the Nasdaq–100® (''NDX'') with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Programs, respectively.

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[11] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.[12] This thirty (30) series restriction would apply to Monday and Wednesday QQQ Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list QQQ options expiring on Mondays and Wednesdays.

Finally, the Exchange is amending Supplementary Material .03(b) to Options 4, Section 5, which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Monday and Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class.[13] As with Monday and Wednesday SPY Expirations, the Exchange is proposing to permit Monday and Wednesday QQQ Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday and Wednesday QQQ Expirations because Monday and Wednesday QQQ Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday and Wednesday QQQ Expirations for one week every month because there was a monthly QQQ expiration on the Friday of that week would create investor confusion.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday and Wednesday QQQ expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday QQQ Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY.

Similar to SPY, the introduction of QQQ Monday and Wednesday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that Monday and Wednesday QQQ expirations will allow market participants to purchase QQQ based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Program has been successful to date and that Monday and Wednesday QQQ Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday and Wednesday QQQ Expirations should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY Expirations.[16] Also, Cboe[17] currently permits Monday and Wednesday expirations for other options with a weekly expiration, such as options on the SPX pursuant to its Nonstandard Expirations Pilot Program and Phlx[18] and the Exchange[19] currently permit Monday and Wednesday expirations for other options with a weekly expiration on NDX pursuant to its Nonstandard Expirations Pilot Programs, respectively.

With the exception of Monday expiration series that are scheduled to expire on a holiday, there are no material differences in the treatment of Monday and Wednesday QQQ expirations for Short Term Option Series. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. Monday SPY expirations are treated in this manner today.[20] Cboe[21] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx[22] and the Exchange[23] for NDX options with Monday expirations that

[7] *See* Supplementary Material .03 at Options 4, Section 5.

[8] *See* Cboe Rule 4.13(e)(1) ''. . .If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.''

[9] *See* Phlx Options 4A, Section 12(b)(5).

[10] *See* ISE Supplementary Material .07 to Options 4A, Section 12.

[11] *See* Supplementary Material .03(a) to Options 4, Section 5.

[12] *Id.*

[13] *See* current Supplementary Material .03(b) to Options 4, Section 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Supplementary Material .03 at Options 4, Section 5.

[17] *See supra* note 8.

[18] *See supra* note 9.

[19] *See supra* note 10.

[20] *See* Supplementary Material .03 at Options 4, Section 5.

[21] *See supra* note 8.

[22] *See supra* note 9.

[23] *See supra* note 10.

are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

Given the similarities between Monday and Wednesday SPY Expirations and the proposed Monday and Wednesday QQQ Expirations, the Exchange believes that applying the provisions in Supplementary Material .03 to Options 4, Section 5 that currently apply to Monday and Wednesday SPY Expirations to Monday and Wednesday QQQ Expirations is justified. For example, the Exchange believes that allowing Monday and Wednesday QQQ Expirations and monthly QQQ expirations in the same week will benefit investors and minimize investor confusion by providing Monday and Wednesday QQQ Expirations in a continuous and uniform manner. The Exchange also believes that it is appropriate to amend Supplementary Material .03(b) to Options 4, Section 5 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class, same as SPY.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday and Wednesday expirations, including Monday and Wednesday QQQ Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday QQQ expirations.

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 notes that having Monday and Wednesday QQQ expirations is not a novel proposal, as Monday and Wednesday SPY Expirations are currently listed on the Exchange.[24] Cboe [25] uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday, as do Phlx [26] and the Exchange [27] for NDX options with Monday expirations that are listed pursuant to their Nonstandard Expirations Pilot Programs, respectively.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Monday and Wednesday expirations.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(6) thereunder.[29]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [30] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved Phlx's substantially similar proposal to list and trade Monday QQQ Expirations and Wednesday QQQ Expirations.[31] The Exchange has stated that waiver of the operative delay will permit the Exchange to immediately amend ISE Options 4, Section 5 at Supplementary Material .03 to permit the Exchange to offer Monday and Wednesday expirations for options listed pursuant to the Program on QQQ similar to Phlx. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[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 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–ISE–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–ISE–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

[24] *See* Supplementary Material .03 at Options 4, Section 5.

[25] *See supra* note 8.

[26] *See supra* note 9.

[27] *See supra* note 10.

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 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.

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] *See* Securities Exchange Act Release No. 91614 (April 20, 2021).

[32] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–ISE–2021–07 and should be submitted on or before May 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–08900 Filed 4–28–21; 8:45 am]

BILLING CODE 8011–01–P

[33] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16932 and #16933; Kentucky Disaster Number KY–00084]

Presidential Declaration of a Major Disaster for the Commonwealth of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–4595–DR), dated 04/23/2021.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/27/2021 through 03/14/2021.

DATES: Issued on 04/23/2021.

Physical Loan Application Deadline Date: 06/22/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 01/24/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/23/2021, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Breathitt, Clay, Estill, Floyd, Johnson, Lee, Magoffin, Martin, Powell

Contiguous Counties (Economic Injury Loans Only):

Kentucky: Bell, Clark, Jackson, Knott, Knox, Laurel, Lawrence, Leslie, Madison, Menifee, Montgomery, Morgan, Owsley, Perry, Pike, Wolfe

West Virginia: Mingo, Wayne

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	2.500
Homeowners without Credit Available Elsewhere	1.250
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	3.000
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.000
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 16932 6 and for economic injury is 16933 0.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–08965 Filed 4–28–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16934 and #16935; Kentucky Disaster Number KY–00085]

Presidential Declaration of a Major Disaster for Public Assistance Only for the Commonwealth of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–4595–DR), dated 04/23/2021.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/27/2021 through 03/14/2021.

DATES: Issued on 04/23/2021.

Physical Loan Application Deadline Date: 06/22/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 01/24/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/23/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Boyd, Breathitt, Carter, Casey, Cumberland, Elliott, Floyd, Franklin, Jackson, Johnson, Knott, Knox, Lawrence, Lee, Lincoln, Magoffin, Marion, Martin, Mason, Morgan, Ohio, Pike, Powell, Rockcastle, Wolfe.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 16934 6 and for economic injury is 16935 0.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–08966 Filed 4–28–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0361]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Inspection Authorization Refresher Course Acceptance Form AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The collection is from persons or entities that desire to provide Inspection Authorization (IA) refresher courses for the purpose of IA renewal. The course providers complete FAA Form 8610–6 to substantiate their courses and administrative procedures are acceptable to the Administrator as required by 14 CFR 65.93(a)(4).

DATES: Written comments should be submitted by June 28, 2021.

ADDRESSES: Please send written comments:

By Electronic Docket: https://www.regulations.gov (Enter docket number into search field).

By email: Robert Warren, *robert.w.warren@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Warren by email at: *robert.w.warren@faa.gov;* phone: 202–267–1711

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–XXXX.

Title: Inspection Authorization Refresher Course Acceptance Form.

Form Numbers: FAA Form 8610–6.

Type of Review: The form is new and so is the OMB control number, however this information was previously collected by FAA Order 8900.1 Volume 3 Chapter 56 Section 1.

Background: Successful completion of a refresher course acceptable to the Administrator is one method available for mechanics renewing their Inspection Authorization in accordance with 14 CFR 65.93. The information requested by the form enables the FAA to determine if the IA refresher course providers offer course content that meets the intent of the regulation, 14 CFR part 65.93(a)(4). The form also seeks substantiation of the course provider's administrative processes to ensure recordkeeping of the training provided to IA mechanics that have taken their courses.

Respondents: Persons or entities who have applied for or received notification of accepted courses to conduct IA refresher training. Course providers or course provider applicants may submit a course for acceptance at any time. Currently, there are approximately 160 IA refresher course providers, who submit approximately 13 initial course acceptance requests, 12 course changes, and 375 course renewal requests each year. Each course provider also has recordkeeping responsibilities for the IA mechanics that complete their refresher courses.

Frequency: Accepted refresher courses are valid for four years and a renewal should be requested by the course provider prior to course expiration to ensure continued eligibility. On occasion, course providers submit course changes for approval when course revisions are made.

Course provider record keeping is a function of the number of courses offered to IA mechanics.

Estimated Average Form Completion Burden per Response: The FAA estimates an average of 1 hour per course submission, to include initial submission, course changes, and course renewals. This results in an estimated annual submission burden of 400 hours.

Estimated Average Record Keeping Burden per Trainee: Course providers are obligated to record the training of the IA's that complete their refresher courses. The FAA estimates recording of the training to take .1 hours per trainee. The estimated annual recordkeeping burden is 6,576 hours.

Estimated Total Annual Burden: The combined sum of the course acceptance submission burden and record keeping burden is an estimated 6,976 hours.

Issued in Washington, DC, on April 26, 2021.

Robert W. Warren,

Aviation Safety Inspector, Office of Safety Standards, Aircraft Maintenance Division, General Aviation Branch.

[FR Doc. 2021–08972 Filed 4–28–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0004]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt nine individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: The exemptions were applicable on April 17, 2021. The exemptions expire on April 17, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0004, in the keyword box, and click ''Search.'' Next,

sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy*.

II. Background

On March 17, 2021, FMCSA published a notice announcing receipt of applications from nine individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (86 FR 14670). The public comment period ended on April 16, 2021, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received one comment in this proceeding. Shayla Britt submitted a comment in support of the Agency's decision to grant the exemptions.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision, as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the March 17, 2021, **Federal Register** notice (86 FR 14670) and will not be repeated here.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The nine exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, cataracts, optic nerve coloboma, optic neuropathy, and retinal detachment. In most cases, their eye conditions did not develop recently. Seven of the applicants were either born with their vision impairments or have had them since childhood. The two individuals that developed their vision conditions as adults have had them for a range of 13 to 20 years. Although each applicant has one eye that does not meet the vision requirement in § 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging from 3 to 80 years. In the past 3 years, one driver was involved in a crash, and one driver was convicted of a moving violation in a CMV. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in § 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in § 391.41(b)(10) and (b) by a certified medical examiner (ME) who attests that the individual is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this

exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the nine exemption applications, FMCSA exempts the following drivers from the vision requirement, § 391.41(b)(10), subject to the requirements cited above:

Jack A. Hemelgarn (MN)

Joshua D. Kelley (TX)

Richard T. Kessen (IL)

Charles W. McClister III (PA)

Craig Neblett (MO)

John G. Shaver (NC)

Robert L. Strange, Jr. (NC)

Scott E. Wertman (NC)

Thomas L. Wiles (NJ)

In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–08894 Filed 4–28–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5748; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2002–12432;FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2005–20560; FMCSA–2006–26066; FMCSA–2007–27333; FMCSA–2007–27515; FMCSA–2007–28695; FMCSA–2008–0021; FMCSA–2008–0174; FMCSA–2008–0231; FMCSA–2008–0340; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0082; FMCSA–2010–0114; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2011–0124; FMCSA–2012–0104; FMCSA–2012–0214; FMCSA–2013–0022; FMCSA–2013–0025; FMCSA–2013–0030; FMCSA–2014–0003; FMCSA–2014–0010; FMCSA–2014–0301; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2014–0305; FMCSA–2015–0350; FMCSA–2016–0206; FMCSA–2016–0214; FMCSA–2017–0014; FMCSA–2017–0016; FMCSA–2018–0014; FMCSA–2019–0004; FMCSA–2019–0005; FMCSA–2019–0008; FMCSA–2019–0009]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 59 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirements in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before June 1, 2021.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–1999–5748, Docket No. FMCSA–2000–7363, Docket No. FMCSA–2000–8398, Docket No. FMCSA–2001–9258, Docket No. FMCSA–2002–12432, Docket No. FMCSA–2002–12844, Docket No. FMCSA–2003–14223, Docket No. FMCSA–2003–14504, Docket No. FMCSA–2004–17984, Docket No. FMCSA–2004–19477, Docket No. FMCSA–2005–20560, Docket No. FMCSA–2006–26066, Docket No. FMCSA–2007–27333, Docket No. FMCSA–2007–27515, Docket No. FMCSA–2007–28695, Docket No. FMCSA–2008–0021, Docket No. FMCSA–2008–0174, Docket No. FMCSA–2008–0231, Docket No. FMCSA–2008–0340, Docket No. FMCSA–2008–0398, Docket No. FMCSA–2009–0054, Docket No. FMCSA–2010–0082, Docket No. FMCSA–2010–0114, Docket No. FMCSA–2010–0187, Docket No. FMCSA–2010–0287, Docket No. FMCSA–2011–0124, Docket No. FMCSA–2012–0104, Docket No. FMCSA–2012–0214, Docket No. FMCSA–2013–0022, Docket No. FMCSA–2013–0025, Docket No. FMCSA–2013–0030, Docket No. FMCSA–2014–0003, Docket No. FMCSA–2014–0010, Docket No. FMCSA–2014–0301, Docket No. FMCSA–2014–0302, Docket No. FMCSA–2014–0304, Docket No. FMCSA–2014–0305, Docket No. FMCSA–2015–0350, Docket No. FMCSA–2016–0206, Docket No. FMCSA–2016–0214, Docket No. FMCSA–2017–0014, Docket No. FMCSA–2017–0016, Docket No. FMCSA–2018–0014, Docket No. FMCSA–2019–0004, Docket No. FMCSA–2019–0005, Docket No. FMCSA–2019–0008, or Docket No. FMCSA–2019–0009 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–1999–5748, FMCSA–2000–7363, FMCSA–2000–8398, FMCSA–2001–9258, FMCSA–2002–12432, FMCSA–2002–12844, FMCSA–2003–14223, FMCSA–2003–14504, FMCSA–2004–17984, FMCSA–2004–19477, FMCSA–2005–20560, FMCSA–2006–26066, FMCSA–2007–27333, FMCSA–2007–27515, FMCSA–2007–28695, FMCSA–2008–0021, FMCSA–2008–0174, FMCSA–2008–0231, FMCSA–2008–0340, FMCSA–2008–0398, FMCSA–2009–0054, FMCSA–2010–0082, FMCSA–2010–0114, FMCSA–2010–0187, FMCSA–2010–0287, FMCSA–2011–0124, FMCSA–2012–0104, FMCSA–2012–0214, FMCSA–2013–0022, FMCSA–2013–0025, FMCSA–2013–0030, FMCSA–2014–0003, FMCSA–2014–0010, FMCSA–2014–0301, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2014–0305, FMCSA–2015–0350, FMCSA–2016–0206, FMCSA–2016–0214, FMCSA–2017–0014, FMCSA–2017–0016, FMCSA–2018–0014, FMCSA–2019–0004, FMCSA–2019–0005, FMCSA–2019–0008, or FMCSA–2019–0009, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the

''Comment'' button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–1999–5748; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2002–12432; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2004–17984; FMCSA–2004–19477; FMCSA–2005–20560; FMCSA–2006–26066; FMCSA–2007–27333; FMCSA–2007–27515; FMCSA–2007–28695; FMCSA–2008–0021; FMCSA–2008–0174; FMCSA–2008–0231; FMCSA–2008–0340; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2010–0082; FMCSA–2010–0114; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2011–0124; FMCSA–2012–0104; FMCSA–2012–0214; FMCSA–2013–0022; FMCSA–2013–0025; FMCSA–2013–0030; FMCSA–2014–0003; FMCSA–2014–0010; FMCSA–2014–0301; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2014–0305; FMCSA–2015–0350; FMCSA–2016–0206; FMCSA–2016–0214; FMCSA–2017–0014; FMCSA–2017–0016; FMCSA–2018–0014; FMCSA–2019–0004; FMCSA–2019–0005; FMCSA–2019–0008; FMCSA–2019–0009), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/,* insert the docket number, FMCSA–1999–5748, FMCSA–2000–7363, FMCSA–2000–8398, FMCSA–2001–9258, FMCSA–2002–12432, FMCSA–2002–12844, FMCSA–2003–14223, FMCSA–2003–14504, FMCSA–2004–17984, FMCSA–2004–19477, FMCSA–2005–20560, FMCSA–2006–26066, FMCSA–2007–27333, FMCSA–2007–27515, FMCSA–2007–28695, FMCSA–2008–0021, FMCSA–2008–0174, FMCSA–2008–0231, FMCSA–2008–0340, FMCSA–2008–0398, FMCSA–2009–0054, FMCSA–2010–0082, FMCSA–2010–0114, FMCSA–2010–0187, FMCSA–2010–0287, FMCSA–2011–0124, FMCSA–2012–0104, FMCSA–2012–0214, FMCSA–2013–0022, FMCSA–2013–0025, FMCSA–2013–0030, FMCSA–2014–0003, FMCSA–2014–0010, FMCSA–2014–0301, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2014–0305, FMCSA–2015–0350, FMCSA–2016–0206, FMCSA–2016–0214, FMCSA–2017–0014, FMCSA–2017–0016, FMCSA–2018–0014, FMCSA–2019–0004, FMCSA–2019–0005, FMCSA–2019–0008, or FMCSA–2019–0009 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–1999–5748, FMCSA–2000–7363, FMCSA–2000–8398, FMCSA–2001–9258, FMCSA–2002–12432, FMCSA–2002–12844, FMCSA–2003–14223, FMCSA–2003–14504, FMCSA–2004–17984, FMCSA–2004–19477, FMCSA–2005–20560, FMCSA–2006–26066, FMCSA–2007–27333, FMCSA–2007–27515, FMCSA–2007–28695, FMCSA–2008–0021, FMCSA–2008–0174, FMCSA–2008–0231, FMCSA–2008–0340, FMCSA–2008–0398, FMCSA–2009–0054, FMCSA–2010–0082, FMCSA–2010–0114, FMCSA–2010–0187, FMCSA–2010–0287, FMCSA–2011–0124, FMCSA–2012–0104, FMCSA–2012–0214, FMCSA–2013–0022, FMCSA–2013–0025, FMCSA–2013–0030, FMCSA–2014–0003, FMCSA–2014–0010, FMCSA–2014–0301, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2014–0305, FMCSA–2015–0350, FMCSA–2016–0206, FMCSA–2016–0214, FMCSA–2017–0014, FMCSA–2017–0016, FMCSA–2018–0014, FMCSA–2019–0004, FMCSA–2019–0005, FMCSA–2019–0008, or FMCSA–2019–0009 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum

duration of a driver's medical certification.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

The 59 individuals listed in this notice have requested renewal of their exemptions from the vision standard in § 391.41(b)(10), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 59 applicants has satisfied the renewal conditions for obtaining an exemption from the vision standard (see 64 FR 40404, 64 FR 66962, 65 FR 45817, 65 FR 77066, 65 FR 78256, 66 FR 16311, 66 FR 17743, 66 FR 33990, 67 FR 10475, 67 FR 54525, 67 FR 68719, 67 FR 71610, 68 FR 2629, 68 FR 8794, 68 FR 10301, 68 FR 13360, 68 FR 19596, 68 FR 19598, 68 FR 33570, 68 FR 35772, 69 FR 26206, 69 FR 33997, 69 FR 61292, 69 FR 64806, 69 FR 64810, 69 FR 71100, 70 FR 2705, 70 FR 8659, 70 FR 12265, 70 FR 16886, 70 FR 17504, 70 FR 25878, 70 FR 30997, 70 FR 33937, 71 FR 26602, 71 FR 55820, 71 FR 63380, 72 FR 185, 72 FR 1050, 72 FR 1053, 72 FR 5489, 72 FR 11426, 72 FR 12666, 72 FR 18726, 72 FR 21313, 72 FR 25831, 72 FR 27624, 72 FR 28093, 72 FR 32703, 72 FR 32705, 72 FR 46261, 72 FR 54972, 73 FR 15567, 73 FR 27015, 73 FR 27017, 73 FR 38498, 73 FR 38499, 73 FR 46973, 73 FR 48273, 73 FR 54888, 73 FR 65009, 73 FR 75803, 73 FR 75806, 73 FR 76440, 74 FR 981, 74 FR 6207, 74 FR 6209, 74 FR 7097, 74 FR 8302, 74 FR 11988, 74 FR 11991, 74 FR 15584, 74 FR 15586, 74 FR 19270, 74 FR 20253, 74 FR 21427, 74 FR 23472, 74 FR 26464, 74 FR 60021, 75 FR 19674, 75 FR 25917, 75 FR 27621, 75 FR 34210, 75 FR 39727, 75 FR 39729, 75 FR 44051, 75 FR 47883, 75 FR 47888, 75 FR 52063, 75 FR 57105, 75 FR 63257, 75 FR 69737, 75 FR 77951, 75 FR 80887, 76 FR 1499, 76 FR 4413, 76 FR 4414, 76 FR 8809, 76 FR 11215, 76 FR 15361, 76 FR 17483, 76 FR 21796, 76 FR 25762, 76 FR 29026, 76 FR 32017, 76 FR 34135, 76 FR 34136, 76 FR 55463, 76 FR 70210, 77 FR 23797, 77 FR 27847, 77 FR 36338, 77 FR 38386, 77 FR 40945, 77 FR 46153, 77 FR 46793, 77 FR 52388, 77 FR 59245, 77 FR 60010, 77 FR 74730, 77 FR 74733, 77 FR 76167, 78 FR 797, 78 FR 12813, 78 FR 12815, 78 FR 12822, 78 FR 16761, 78 FR 18667, 78 FR 20376, 78 FR 22596, 78 FR 22602, 78 FR 26106, 78 FR 30954, 78 FR 32708, 78 FR 34140, 78 FR 34141, 78 FR 41975, 78 FR 56986, 78 FR 66099, 79 FR 14571, 79 FR 23797, 79 FR 28588, 79 FR 29495, 79 FR 37843, 79 FR 46153, 79 FR 46300, 79 FR 51642, 79 FR 51643, 79 FR 52388, 79 FR 64001, 79 FR 65760, 79 FR 72756, 79 FR 73689, 79 FR 74168, 80 FR 3305, 80 FR 3723, 80 FR 6162, 80 FR 12248, 80 FR 12547, 80 FR 14223, 80 FR 15859, 80 FR 16500, 80 FR 16502, 80 FR 20558, 80 FR 20562, 80 FR 22773, 80 FR 25766, 80 FR 26320, 80 FR 29149, 80 FR 29152, 80 FR 29154, 80 FR 33009, 80 FR 33011, 80 FR 45573, 80 FR 80443, 81 FR 14190, 81 FR 20435, 81 FR 28138, 81 FR 39100, 81 FR 60115, 81 FR 71173, 81 FR 72642, 81 FR 80161, 81 FR 81230, 81 FR 96165, 81 FR 96180, 81 FR 96196, 82 FR 12678, 82 FR 13043, 82 FR 13048, 82 FR 15277, 82 FR 17736, 82 FR 18818, 82 FR 18949, 82 FR 18954, 82 FR 22379, 82 FR 26224, 82 FR 28734, 82 FR 37499, 83 FR 28325, 83 FR 28332, 83 FR 33292, 83 FR 40638, 83 FR 53724, 83 FR 54644, 83 FR 56902, 84 FR 2311, 84 FR 2314, 84 FR 5550, 84 FR 10389, 84 FR 12665, 84 FR 16320, 84 FR 16327, 84 FR 16333, 84 FR 21393, 84 FR 21397, 84 FR 21401, 84 FR 23629, 84 FR 27688, 84 FR 47047). They have submitted evidence showing that the vision in the better eye continues to meet the requirement specified at§ 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of June and are discussed below. As of June 4, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 53 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 40404, 64 FR 66962, 65 FR 45817, 65 FR 77066, 65 FR 78256, 66 FR 16311, 67 FR 10475, 67 FR 54525, 67 FR 68719, 67 FR 71610, 68 FR 2629, 68 FR 8794, 68 FR 10301, 68 FR 13360, 68 FR 19596, 68 FR 19598, 68 FR 33570, 69 FR 26206, 69 FR 33997, 69 FR 61292, 69 FR 64806, 69 FR 64810, 69 FR 71100, 70 FR 2705, 70 FR 8659, 70 FR 12265, 70 FR 16886, 70 FR 17504, 70 FR 25878, 70 FR 30997, 71 FR 26602, 71 FR 55820, 71 FR 63380, 72 FR 185, 72 FR 1050, 72 FR 1053, 72 FR 5489, 72 FR 11426, 72 FR 12666, 72 FR 18726, 72 FR 25831, 72 FR 27624, 72 FR 28093, 72 FR 46261, 72 FR 54972, 73 FR 15567, 73 FR 27015, 73 FR 27017, 73 FR 38498, 73 FR 38499, 73 FR 46973, 73 FR 48273, 73 FR 54888, 73 FR 65009, 73 FR 75803, 73 FR 75806, 73 FR 76440, 74 FR 981, 74 FR 6207, 74 FR 6209, 74 FR 7097, 74 FR 8302, 74 FR 11988, 74 FR 11991, 74 FR 15584, 74 FR 15586, 74 FR 19270, 74 FR 20253, 74 FR 21427, 74 FR 60021, 75 FR 19674, 75 FR 25917, 75 FR 27621, 75 FR 34210, 75 FR 39727, 75 FR 39729, 75 FR 44051, 75 FR 47883, 75 FR 47888, 75 FR 52063, 75 FR 57105, 75 FR 63257, 75 FR 69737, 75 FR 77951, 75 FR 80887, 76 FR 1499, 76 FR 4413, 76 FR 4414, 76 FR 8809, 76 FR 11215, 76 FR 15361, 76 FR 17483, 76 FR 21796, 76 FR 25762, 76 FR 29026, 76 FR 34136, 76 FR 55463, 76 FR 70210, 77 FR 23797, 77 FR 27847, 77 FR 36338, 77 FR 38386, 77 FR 40945, 77 FR 46153, 77 FR 46793, 77 FR 52388, 77 FR 59245, 77 FR 60010, 77 FR 74730, 77 FR 74733, 77 FR 76167, 78 FR 797, 78 FR 12813, 78 FR 12815, 78 FR 12822, 78 FR 16761, 78 FR 18667, 78 FR 22596, 78 FR 22602, 78 FR 26106, 78 FR 30954, 78 FR 41975, 78 FR 56986, 78 FR 66099, 79 FR 14571, 79 FR 23797, 79 FR 28588, 79 FR 29495, 79 FR 37843, 79 FR 46153, 79 FR 46300, 79 FR 51642, 79 FR 51643, 79 FR 52388, 79 FR 64001, 79 FR 65760, 79 FR 72756, 79 FR 73689, 79 FR 74168, 80 FR 3305, 80 FR 3723, 80 FR 6162, 80 FR 12248, 80 FR 12547, 80 FR 14223, 80 FR 15859, 80 FR 16500, 80 FR 16502, 80 FR 20558, 80 FR 20562, 80 FR 22773, 80 FR 25766, 80 FR 26320, 80 FR 29152,

80 FR 33011, 80 FR 45573, 80 FR 80443, 81 FR 14190, 81 FR 20435, 81 FR 28138, 81 FR 39100, 81 FR 60115, 81 FR 71173, 81 FR 72642, 81 FR 80161, 81 FR 81230, 81 FR 96165, 81 FR 96180, 81 FR 96196, 82 FR 12678, 82 FR 13043, 82 FR 13048, 82 FR 15277, 82 FR 17736, 82 FR 18818, 82 FR 18949, 82 FR 18954, 82 FR 22379, 82 FR 26224, 82 FR 28734, 83 FR 28325, 83 FR 28332, 83 FR 33292, 83 FR 40638, 83 FR 53724, 83 FR 54644, 83 FR 56902, 84 FR 2311, 84 FR 2314, 84 FR 5550, 84 FR 10389, 84 FR 12665, 84 FR 16320, 84 FR 16327, 84 FR 16333, 84 FR 21393, 84 FR 21397, 84 FR 21401, 84 FR 27688):

Vilas R. Adank (MN)
Lance S. Binner (MN)
Gary W. Brockway (IA)
Willie Burnett, Jr. (FL)
William R. Chisley (MD)
David R. Cox (OR)
Anthony C. Curtis (WA)
Terry J. Dare (IN)
Bryan K. DeBorde (WA)
Donald D. Dunphy (VA)
Lester M. Ellingson, Jr. (ND)
John K. Fank (IL)
Sean O. Feeny (FL)
Robert A. Ferrucci (FL)
Kelly L. Foster (UT)
Gilbert J. Graybill (OK)
Kelly M. Greene (FL)
William M. Hanes (OH)
Alan L. Helfer (IL)
William D. Holt (AZ)
George R. House (MO)
Arlan T. Hrubes (TX)
Lowell E. Jackson (MO)
Timothy L. Kelly (TX)
Kelly R. Konesky (AZ)
Craig M. Landry (LA)
Joseph A. Leigh, Jr. (NC)
Gene A. Lesher, Jr. (WV)
John Lucas (NC)
Jason E. Mallette (MS)
Roberto E. Martinez (WA)
Michael E. McAfee (KY)
John B. Middleton (OH)
Timothy L. Miller (IA)
Steven M. Montalbo (CA)
Dennis R. O'Dell, Jr. (OK)
Neville E. Owens (NC)
Jerry W. Parker (OH)
Eric D. Pohlmann (MN)
Daniel S. Rebstad (FL)
Daniel C. Reichert (GA)
Michael Renzetti (CT)
Myriam Rodriguez (CA)
James E. Russell (AZ)
James A. Smith (WA)
Randy G. Spilman (OH)
Nelson J. Stokke (CA)
Mark E. Studer (KS)
David Tavarez (NJ)
Steven M. Tewhill (AR)
Janusz Tyrpien (FL)
Donald Wallace (IL)
Raymond White (NC)

The drivers were included in docket numbers FMCSA–1999–5748, FMCSA–2000–7363, FMCSA–2000–8398, FMCSA–2002–12432, FMCSA–2002–12844, FMCSA–2003–14223, FMCSA–2003–14504, FMCSA–2004–17984, FMCSA–2004–19477, FMCSA–2005–20560, FMCSA–2006–26066, FMCSA–2007–27333, FMCSA–2007–28695, FMCSA–2008–0021, FMCSA–2008–0174, FMCSA–2008–0231, FMCSA–2008–0340, FMCSA–2008–0398, FMCSA–2009–0054, FMCSA–2010–0082, FMCSA–2010–0114, FMCSA–2010–0187, FMCSA–2010–0287, FMCSA–2011–0124, FMCSA–2012–0104, FMCSA–2012–0214, FMCSA–2013–0022, FMCSA–2013–0030, FMCSA–2014–0003, FMCSA–2014–0010, FMCSA–2014–0301, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2014–0305, FMCSA–2015–0350, FMCSA–2016–0206, FMCSA–2016–0214, FMCSA–2017–0014, FMCSA–2017–0016, FMCSA–2018–0014, FMCSA–2019–0004, FMCSA–2019–0005, and FMCSA–2019–0008. Their exemptions are applicable as of June 4, 2021, and will expire on June 4, 2023.

As of June 6, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (78 FR 20376, 78 FR 34141, 80 FR 29149, 82 FR 22379, 84 FR 21397):

Enes Milanovic (MI)

The driver was included in docket number FMCSA–2013–0025. The exemption is applicable as of June 6, 2021, and will expire on June 6, 2023.

As of June 13, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (72 FR 21313, 72 FR 32703, 74 FR 23472, 76 FR 32017, 78 FR 32708, 80 FR 29154, 82 FR 37499, 84 FR 21397):

David K. Boswell (TN)

The driver was included in docket number FMCSA–2007–27515. The exemption is applicable as of June 13, 2021, and will expire on June 13, 2023.

As of June 22, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following individual has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (84 FR 23629, 84 FR 47047):

Jerry L. Hofer (NM)

The driver was included in docket number FMCSA–2019–0009. The exemption is applicable as of June 22, 2021, and will expire on June 22, 2023.

As of June 26, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (66 FR 17743, 66 FR 33990, 68 FR 35772, 70 FR 33937, 72 FR 32705, 74 FR 26464, 76 FR 34135, 78 FR 34140, 80 FR 33009, 82 FR 37499, 84 FR 21397):

James P. Jones (ME); Larry J. Lang (MI); and David B. Speller (MN)

The drivers were included in docket number FMCSA–2001–9258. Their exemptions are applicable as of June 26, 2021, and will expire on June 26, 2023.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must undergo an annual physical examination (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a certified medical examiner (ME), as defined by § 390.5, who attests that the driver is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file or keep a copy of his/her driver's qualification if he/her is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 59 exemption applications, FMCSA renews the exemptions of the aforementioned

drivers from the vision requirement in § 391.41(b)(10), subject to the requirements cited above. In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–08892 Filed 4–28–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0154; FMCSA–2013–0121; FMCSA–2013–0124; FMCSA–2014–0102; FMCSA–2014–0103; FMCSA–2014–0104; FMCSA–2014–0106; FMCSA–2014–0107; FMCSA–2018–0135; FMCSA–2018–0136; FMCSA–2018–0137]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 27 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2012–0154, FMCSA–2013–0121, FMCSA–2013–0124, FMCSA–2014–0102, FMCSA–2014–0103, FMCSA–2014–0104, FMCSA–2014–0106, FMCSA–2014–0107, FMCSA–2018–0135, FMCSA–2018–0136, or FMCSA–2018–0137 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On March 17, 2021, FMCSA published a notice announcing its decision to renew exemptions for 27 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (86 FR 14668). The public comment period ended on April 17, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 27 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41 (b)(11).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of March and are discussed below:

As of March 3, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (86 FR 14668):

Kevin Beacham (MD)
Joseph Conversa (IL)
Tyjuan Davis (VA)
Scott Friede (NE)
Kimothy McLeod (GA)
Dustin Miller (MI)
Brandon Veronie (LA)
Charles Whitworth (LA)
Anthony Witcher (MI)

The drivers were included in docket number FMCSA–2012–0154, FMCSA–2014–0103, FMCSA–2014–0106, FMCSA–2018–0135, or FMCSA–2018–0136. Their exemptions were applicable as of March 3, 2021, and will expire on March 3, 2023.

As of March 10, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (86 FR 14668):

David Helgerson (WI) and Susan Helgerson (WI)

The drivers were included in docket number FMCSA–2013–0124. Their exemptions were applicable as of March 10, 2021, and will expire on March 10, 2023.

As of March 13, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (86 FR 14668):

John Huey (AZ); Jared Katakura (HI); and Scott Putman (TX)

The drivers were included in docket number FMCSA–2014–0103 or FMCSA–

2014–0107. Their exemptions were applicable as of March 13, 2021, and will expire on March 13, 2023.

As of March 19, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Victor Morales-Contreras (TX) has satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers.

This driver was included in docket number FMCSA–2014–0106. The exemption was applicable as of March 19, 2021, and will expire on March 19, 2023.

As of March 22, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following five individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

William Britt, Jr. (TN)
Robert Hefner (SC)
Patrick Johnson (MI)
Lawrence Lam (CA)
Phillip Shook, Jr. (MS)

The drivers were included in docket number FMCSA–2018–0137. Their exemptions were applicable as of March 22, 2021, and will expire on March 22, 2023.

As of March 29, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Richard Boggs (OH)
Jeremy Brandyberry (NE)
Kenneth Harris (TX)
Joseph Kelly (PA)
Timothy Laporte (NY)
Brandon Londo (TX)
Jesse Shelander (TX)

The drivers were included in docket number FMCSA–2013–0124, FMCSA–2014–0102, FMCSA–2014–0103, FMCSA–2014–0104, or FMCSA–2014–0106. Their exemptions were applicable as of March 29, 2021, and will expire on March 29, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–08893 Filed 4–28–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunities; Small Dollar Loan Program; 2021 Funding Round

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for the fiscal year (FY) 2021 Funding Round of the Small Dollar Loan Program (SDL Program).

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2021–SDL.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.025.

Dates:

TABLE 1—FY 2021 SMALL DOLLAR LOAN PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time-ET)	Submission method
OMB Standard Form (SF)-424 Mandatory form	May 28, 2021	11:59 p.m. ET	Electronically via *Grants.gov.*
Last day to enter EIN and DUNS numbers in AMIS.	May 28, 2021	11:59 p.m. ET	Electronically via Awards Management Information System (AMIS).
Last day to contact SDL Program Staff	June 25, 2021	5:00 p.m. ET	Service Request via AMIS or CDFI Fund Helpdesk: 202–653–0421 or *sdlp@cdfi.treas.gov.*
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff.	June 25, 2021	5:00 p.m. ET	CCME Helpdesk: 202–653–0423 or Compliance and Reporting AMIS Service Request.
Last day to contact IT Help desk re AMIS support and Application submission.	June 29, 2021	5:00 p.m. ET	CDFI Fund IT Helpdesk: 202–653–0422 or IT AMIS Service Request.
SDL Program Application and Required Attachments.	June 29, 2021	5:00 p.m. ET	Electronically via AMIS.

Executive Summary: The Small Dollar Loan Program (SDL Program) is administered by the Community Development Financial Institutions Fund (CDFI Fund). Through the SDL Program, the CDFI Fund provides (1) grants for Loan Loss Reserves (LLR) to enable a Certified Community Development Financial Institution (CDFI) establish a loan loss reserve fund in order to defray the costs of a small dollar loan program established or maintained by such institution; and (2) grants for Technical Assistance (TA) for technology, staff support, and other eligible activities to enable a Certified CDFI to establish and maintain a small dollar loan program. All awards provided through this Notice of Funds Availability (NOFA) are subject to funding availability.

I. Program Description

A. Authorizing Statute: The SDL Program is a new program, authorized by Title XII—Improving Access to Mainstream Financial Institutions Act of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203), which amended the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103–325) to include the SDL Program (12 U.S.C. 4719). For a complete understanding of the program, the CDFI Fund encourages Applicants to review the SDL Program funding application (referred to hereafter as the ''Application,'' meaning the application submitted in response to this NOFA) and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000), which is the Department of the Treasury's codification of the Office of Management and Budget (OMB) government-wide framework for grants management at 2 CFR part 200 (Uniform Requirements). Each capitalized term used in this NOFA, but not defined herein, shall have the respective meanings assigned to them in the Application or the Uniform

Requirements. Details regarding Application content requirements are found in the Application and related materials at *www.cdfifund.gov/sdlp.*

B. History: The CDFI Fund was established by the Riegle Community Development and Regulatory Improvement Act of 1994 to promote economic revitalization and community development through investment in and assistance to CDFIs. Since its creation in 1994, the CDFI Fund has provided nearly $4 billion through a variety of monetary awards programs to CDFIs, community development organizations, and financial institutions. In addition, the CDFI Fund has allocated $61 billion in tax credit allocation authority to Community Development Entities through the New Markets Tax Credit Program (NMTC Program), and has guaranteed more than $1.7 billion in bonds through the CDFI Bond Guarantee Program.

C. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal award-making agencies must follow. Per the Uniform Requirements, when evaluating Applications, awarding agencies must evaluate the risks to the program posed by each Applicant, and each Applicant's merits and eligibility. These requirements are designed to ensure that Applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant's financial stability, quality of management systems, history of performance, and single audit findings. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for award Recipients.

D. Priorities: The purpose of the SDL Program is to provide grants for LLR and TA to qualified organizations to establish and maintain small dollar loan programs that are safe, affordable, and responsible. SDL Program funding is intended to expand consumer access to financial institutions by providing alternatives to high cost small dollar lending. The SDL Program funding is also intended to help unbanked and underbanked populations build credit, access affordable capital, and allow greater access into the mainstream financial system. To pursue these objectives, the CDFI Fund will prioritize funding for Applications that propose to offer small dollar loan programs that include any of the following characteristics: (1) Koffer small dollar loan terms that are at least ninety (90) days; (2) use ability to repay underwriting that considers the borrower's ability to repay a loan based on both the borrower's income and expenses; (3) make loan decisions within one business day (or twenty-four (24) hours) after receipt of required documents; (4) offer a reduction in the borrower's loan rate if the borrower elects to use automatic debit payments; (5) offer automatic savings features that are built into the regularly-scheduled payments on a loan—provided that the resulting payment is still affordable—or, at a minimum, loans that can be structured so that, subject to the borrower's consent, payments continue for a period of time after the loan is repaid with all of the payments going into a savings vehicle; and (6) offer access to financial education, including credit counseling.

E. Funding limitations:

1. The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA.

2. *Prohibited Practices:* SDL Program Awards may not be used to support small dollar loan programs that have any of the lending practices and loan characteristics listed in Table 2.

TABLE 2—SDL PROGRAM PROHIBITED PRACTICES

Prohibited practice	Prohibited practice definition
i. High-Rate loans	Loans that exceed the lower of an all-inclusive 36% APR or the interest rate limit as set by the state agency that oversees financial institutions in your state.
ii. Coerced automated repayments	Loans that: (1) Have delayed loan disbursements for borrowers who do not agree to automatic repayments, (2) charge fees for borrowers who select manual payments, or (3) require borrowers to make payments using wire transfers or other means that may result in additional fees for borrowers.
iii. Excessive refinancing	Loans that allow refinancing before at least 80% of the principal has been repaid.
iv. Automatic loan insurance or credit card add-ons.	Loans that automatically include add-on insurance products that require borrowers to opt-out to decline coverage, or require the borrower to accept or opt-out of a credit card. For example, loans that automatically include insurance products such as credit, life, disability insurance or involuntary unemployment insurance coverage, or loans that automatically open a credit card for the borrower.
v. Security interests in household goods, vehicles, or deposit accounts. Exception: Loans with a savings account component or credit builder loans.	Loans that are secured, except for loans secured by a savings account for loans with a savings component or credit builder loans.
vi. Excessive late fees on missed loan payments.	Loans that charge more than one fee per late payment.
vii. Abusive overdraft practices	Loans that charge more than one overdraft fee per month. Loans that have posting practices delaying credit for payments that result in overdrafts and fees. Loans that charge overdraft fees more than six times per year.
viii. Aggressive debt collection practices	Loans in which the lender: • Does not offer a workout program or other accommodations to help struggling borrowers before pursuing other debt collection avenues. • All debt collection activities must comply with the Fair Debt Collection Practices Act, whether conducted by the lender, a contract debt collector or sold to third party debt collectors. • Does not disclose to borrowers the details of its debt collection practices or provide notice to a borrower when its account is placed with debt collectors.
ix. Forced arbitration clause and class action ban.	Loan contracts that contain mandatory arbitration clauses that prevent borrowers from seeking legal remedies in court or participating in a class action lawsuit.

F. SDL Program Statutory Requirements:

1. SDL Program Awards may not be used to provide direct loans to consumers.

2. SDL Program Awards may only be used to support small dollar loan programs that offer small dollar loans to consumers that:

a. Are made in amounts that do not exceed $2,500;

b. must be repaid in installments;

c. have no prepayment penalty; and

d. have payments that are reported to a least one of the consumer reporting agencies that compiles and maintains files on consumers on a nationwide basis.

II. Federal Award Information

A. Funding Availability: The CDFI Fund expects to award, through this NOFA, up to $13.5 million, as indicated in the following table:

TABLE 3—SDL PROGRAM ANTICIPATED AWARD AMOUNTS

Eligible awards	Award amount	
	Minimum	Maximum
Loan Loss Reserves	$20,000	Up to 20% of the Applicant's 3 year Projected Total to be closed On-Balance Sheet Small Dollar Loans, not to exceed $350,000.
Technical Assistance	10,000	$150,000.
Combination of Loan Loss Reserves and Technical Assistance.	30,000	$500,000 (up to Up to 20% of the Applicant's 3 year Projected Total to be closed On-Balance Sheet Small Dollar Loans, not to exceed $350,000 *plus* $150,000).

Eligible Applicants may submit only one SDL Program Application and therefore will need to determine if they are applying for an LLR grant, a TA grant, or both. The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

B. Types of Awards: The CDFI Fund will provide SDL Program Awards for LLR or TA in the form of grants to support the eligible activities as set forth in this NOFA and Application.

C. Anticipated Start Date and Period of Performance: The Period of Performance for each SDL Program Award begins with the date that the CDFI Fund announces the Recipients of the FY 2021 SDL Program Awards and includes a Recipient's three full consecutive fiscal years after the date of the award announcement, during which time the Recipient must meet the Performance Goals and Measures (PG&Ms) set forth in the Assistance Agreement. The Budget Period for an SDLP Award is the same as the Period of Performance.

D. Eligible Activities: An SDL Program Award must support or finance activities to establish and maintain small dollar loan programs that are safe, affordable, and responsible. SDL Program Awards may only be used as follows:

1. Loan Loss Reserves: Loan Loss Reserve (LLR) Awards must be set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on small dollar loans. LLR Awards may be used to mitigate losses on a new or established small dollar loan program. LLR Award Recipients must meet performance goals and metrics, which will be derived from projections and attestations provided by the Applicant in its Application, prior to the end of the Period of Performance.

2. Technical Assistance: TA Awards may be used for technology, staff support, and other costs associated with establishing and maintaining a small dollar loan program as listed in Table 4. The seven eligible activity categories are: (i) Compensation—Personal Services; (ii) Professional Service Costs; (iii) Travel Costs; (iv) Training and Education Costs; (v) Equipment; (vi) Supplies; and (vii) Development Services. The TA award must be expended in the seven eligible activity categories before the end of the Period of Performance.-None of the eligible activity categories are authorized for indirect costs or an associated indirect cost rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are generally found in Subpart E-Cost Principles.

SDL Program Recipients must meet certain PG&Ms which will require the Recipient to expend the SDL Program Award on eligible activities and close small dollar loans.

(i)(a) LLR Award Recipients that will use the SDL Program Award to start a new small dollar loan program must expend 50% of the Recipient's first payment amount by the second year of the Period of Performance for loan loss reserves for a new small dollar loan program and expend 100% of the total award amount by the Period of Performance end date for loan loss reserves for a new small dollar loan program. LLR Award Recipients that will use the SDL Program Award to expand an existing small dollar loan program must expend 75% of the Recipient's first payment amount by the end of the first year of the Period of Performance for loan loss reserves to expand an existing small dollar loan program and expend 100% of the total award amount by the Period of Performance end date for loan loss reserves to expand an existing small dollar loan program.

(i)(b) TA Award Recipients that will use the SDL Program Award to start a new small dollar loan program must expend 50% of the Recipient's first payment amount by the second year of the Period of Performance on eligible activities to start a new small dollar loan program and expend 100% of the total award amount by the Period of Performance end date on eligible activities to start a new small dollar loan program. TA Award Recipients that will use the SDL Program Award to expand an existing small dollar loan program must expend 75% of the Recipient's first payment amount by the end of the first year of the Period of Performance on eligible activities to expand an existing small dollar loan program and expend 100% of the total award amount by the Period of Performance end date on eligible activities to expand an existing small dollar loan program.

(ii) All SDL Program Award Recipients must close small dollar loans based on the three-year projected small dollar loan total to be closed as proposed in the Application, demonstrating an increase in lending. This amount may be adjusted based on award size.

Final PG&Ms may differ and will be set forth in the final SDL Program Assistance Agreement.

For purposes of this NOFA, the seven eligible TA activity categories are defined below:

TABLE 4—ELIGIBLE TECHNICAL ASSISTANCE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS

(i) Compensation—Personal Services	TA paid to cover all remuneration, paid currently or accrued, for services of Applicant's employees related to establishing or maintaining the Applicant's small dollar loan program rendered during the Period of Performance under the TA grant in accordance with section 200.430 of the Uniform Requirements. Any work performed directly, but unrelated to the purposes of the TA grant may not be paid as Compensation through a TA grant. For example, the salaries for building maintenance are not related to the purpose of a TA grant and would be deemed unallowable.
(ii) Professional service costs	TA used to pay for professional and consultant services (*e.g.,* such as strategic and marketing plan development) related to establishing or maintaining the Applicant's small dollar loan program, rendered by persons who are members of a particular profession or possess a special skill (*e.g.,* credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee.
(iii) Travel costs	TA used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to establishing or maintaining the Applicant's small dollar loan program, in accordance with section 200.474 of the Uniform Requirements. Travel costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(iv) Training and education costs	TA used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.473 of the Uniform Requirements. TA can only be used to pay for training costs incurred by the Applicant's employees related to establishing or maintaining the Applicant's small dollar loan program. Training and education costs may not be incurred by the Applicant's consultants.
(v) Equipment	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least $5,000, as defined in the Uniform Requirements, related to establishing or maintaining the Applicant's small dollar loan program. For example, items such as information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vi) Supplies	TA used to pay for tangible personal property with a per unit acquisition cost of less than $5,000, as defined in the Uniform Requirements, related to establishing or maintaining the Applicant's small dollar loan program. For example, a desktop computer costing $1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.
(vii) Development Services	TA used to pay for activities undertaken by an Applicant that prepare or assist current or potential borrowers to use the Applicant's small dollar loan program. For example, such activities include financial education, including credit counseling.

E. Persistent Poverty Counties: Pursuant to the Consolidated Appropriations Act, 2020 (Pub. L. 116–63) and Consolidated Appropriations Act, 2021 (Pub. L. 116–260), Congress mandated that at least 10% of the CDFI Fund's appropriations be directed to counties that meet the criteria for ''Persistent Poverty'' designation. Persistent Poverty Counties (PPCs) are defined as any county, including county equivalent areas in Puerto Rico, that has had 20% or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and the 2011–2015 5-year data series available from the American Community Survey of the Census Bureau or any other territory or possession of the United States that has had 20% or more of its population living in poverty over the past 30 years, as measured by the 1990, 2000 and 2010 Island Areas Decennial Censuses, or equivalent data, of the Bureau of the Census and published by the CDFI Fund at: *https://www.cdfifund.gov/Documents/PPC%20updated%20Oct.2017.xlsx.* To comply with this mandate, the CDFI Fund will prioritize funding to Applicants that have headquarters (as stated in the Applicant's Application) located in PPCs.

III. Eligibility Information

A. Eligible Applicants: In order to be eligible to apply for an SDL Program Award, Eligible Applicants are as follows:

1. For LLRs:

a. A Certified Community Development Financial Institution (CDFI); or

b. a partnership between:

i. A Certified CDFI; and

ii. A Federally Insured Depository Institution [1] (FIDI) with a primary mission to serve targeted Investment Areas.[2]

2. For TA:

a. A Certified CDFI; or

b. a partnership between two or more Certified CDFIs.

3. For Combination of LLR and TA:

a. A Certified CDFI.

Eligible Applicants may submit only one SDL Program Application and therefore will need to determine if they

[1] A ''federally insured depository institution'' is any insured depository institution as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and any insured credit union as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

[2] 12 U.S.C. 4702(16), Investment Area—The term ''investment area'' means a geographic area (or areas) including an Indian reservation that—

(A)(i) meets objective criteria of economic distress developed by the Fund, which may include the percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, rural population outmigration, lag in population growth, and extent of blight and disinvestment; and (ii) has significant unmet needs for loans or equity investments; or

(B) encompasses or is located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986.

are eligible and applying for LLR, TA, or both.

For purposes of the Application, the term ''Applicant'' refers to an organization applying on its own as a Certified CDFI or refers to the designated lead Certified CDFI applying on behalf of a partnership. The Applicant must use the SDL Program Award to establish or maintain a small dollar loan program. In the case of a partnership, the designated lead Certified CDFI must use the SDL Program Award to establish or maintain a small dollar loan program.

B. Additional Guidance on Applicants Applying As Partnerships: The partnership must designate a lead Certified CDFI for the partnership that will submit the Application. This designated lead Certified CDFI will also submit a written partnership agreement (*e.g.,* Memorandum of Understanding) detailing roles and responsibilities of the partners, partner replacement or substitution restrictions, any financial contributions and profit sharing arrangements, and performance requirements for the entities in the partnership.

A partner may be a FIDI, if the partnership is applying for an LLR Award, or a Certified CDFI, if the partnership is applying for a TA Award. A partner may not apply for its own award under the FY 2021 SDL Program funding round or apply as a partner for more than one Application submitted under the FY 2021 SDL Program funding round. A partnership is a formal arrangement, as evidenced by a written partnership agreement (*e.g.,* Memorandum of Understanding), between a Certified CDFI and a FIDI or between two or more Certified CDFIs. The partnership must be designed to accomplish one or more of the strategic goals discussed in the Business Strategy and Community Impact section of the SDL Applicant's Application and be integral to the successful completion of the Applicant's strategic goal(s). The partnership should be such that the Applicant's strategic goal(s), would not be achievable without the direct input and/or assistance of the partner. An Applicant that collaborates or coordinates with a FIDI or a CDFI to achieve the strategic goals detailed in the Application is not required to apply as a partnership. Applicants that apply as a partnership will be evaluated based on the same criteria as Applicants that apply without a partnership. If selected to receive an SDL Program Award, the lead Certified CDFI Recipient will be solely responsible for carrying out the activities described in its Application and complying with the terms and conditions of the Assistance Agreement. The partner(s) will not be a co-Recipient of the award. As such, the lead Certified CDFI Recipient will be prohibited from using the SDL Program Award to fund any activity carried out directly by the partner or an Affiliate or Subsidiary thereof. Examples of partnerships include the following:

Applying as a Partnership

Example 1: ABC Certified CDFI has a strategic goal of increasing its small dollar lending by X% over X number of years. ABC Certified CDFI will request an SDL Program Award for LLRs to mitigate losses on the small dollar loans it provides as it seeks to expand its small dollar loan program. ABC Certified CDFI has a partnership agreement in place with a local FIDI that it will refer all small dollar loan candidates to the CDFI. ABC Certified CDFI chooses to apply as a partnership with the local FIDI as its partner. ABC Certified CDFI will explain in its narrative and Partnership Agreement how an SDL Program Award for LLRs and the referrals from the local FIDI partner will ensure that its strategic goal of increasing small dollar lending is achieved.

Example 2: XYZ Certified CDFI has a strategic goal to provide a new small dollar loan product. XYZ Certified CDFI will request an SDL Program Award for TA to upgrade its technology systems to support a new small dollar loan product. XYZ Certified CDFI has a partnership agreement in place with a Certified CDFI that will provide free financial counseling services to the XYZ Certified CDFI's small dollar loan Applicants. XYZ Certified CDFI chooses to apply as a partnership with the Certified CDFI as its partner. XYZ Certified CDFI will explain in its narrative and Partnership Agreement how an SDL Program Award for TA and the financial counseling provided to potential borrowers and borrowers will support the growth of the new small dollar loan program.

Note: A Certified CDFI Depository Institution Holding Company Applicant that intends to carry out the activities of an Award through its Subsidiary Certified CDFI Insured Depository Institution should not apply as a partnership. Instead, the Certified CDFI Depository Institution Holding Company should apply as a sole entity. Table 5 indicates the criteria that each Application must meet in order to be eligible for an SDL Program Award pursuant to this NOFA.

TABLE 5—ELIGIBILITY REQUIREMENTS FOR SDL PROGRAM APPLICANTS

All Applicants	• Must be a Certified CDFI as set forth in 12 CFR 1805.201 and verified in the CDFI's AMIS account as of the publication date of this NOFA.
	  • The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification and Data Collection Report if the CDFI Fund has not yet made a final compliance determination.
	  • If a Certified CDFI loses its certification at any point prior to the award announcement, the Application will be deemed ineligible and no longer be considered for an Award by the CDFI Fund.
	• The financial information in the Application (including any uploaded attachments) should only reflect the activities of the entity that will carry out the proposed award activities. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application. Also, do not include financial or portfolio information from partner entities, if the Applicant is applying as a partnership.
	• An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Depository Institution Holding Companies (see below).

FIDI Partner	• Is not required to be a Certified CDFI. • Must have a primary mission to serve targeted Investment Areas.
Application and submission overview through *Grants.gov* and Awards Management Information System (AMIS).	• Applicants must submit the Required Application Documents listed in Table 6. • The CDFI Fund will only accept Applications that use the official Application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered. • Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) The SF–424 in *Grants.gov* and (2) all other Required Application Documents in AMIS. • *Grants.gov* and the SF–424: • *Grants.gov:* Applicants must submit the Standard Form (SF) SF–424, Application for Federal Assistance.

TABLE 5—ELIGIBILITY REQUIREMENTS FOR SDL PROGRAM APPLICANTS—Continued

	• All Applicants must register in the *Grants.gov* system to successfully submit an Application. The CDFI Fund strongly encourages Applicants to register as soon as possible. • The CDFI Fund will not extend the SF–424 application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or Federal technological error that directly resulted in a late submission of the SF–424. • The SF–424 must be submitted in *Grants.gov* on or before the deadline listed in Table 1 and Table 6. Applicants are strongly encouraged to submit their SF–424 as early as possible in the *Grants.gov* portal. • The deadline for the *Grants.gov* submission is before the AMIS submission deadline. • The SF–424 must be submitted under the SDL Program Funding Opportunity Number for the SDL Program Application. • If the SF–424 is not accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any material submitted in AMIS and the Application will be deemed ineligible. • AMIS and all other Required Application Documents listed in Table 6: • AMIS is an enterprise-wide information technology system. Applicants will use AMIS to submit and store organization and Application information with the CDFI Fund. • Applicants are only allowed one SDL Program Application submission in AMIS. • Each Application in AMIS must be signed by an Authorized Representative. • Applicants must ensure that the Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. *Consultants working on behalf of the organization may not be designated as Authorized Representatives.* • Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. • All Required Application Documents must be submitted in AMIS on or before the deadline specified in Tables 1 and 6. • The CDFI Fund will not extend the deadline for any Applicant except in the case of a Federal government administrative or Federal technological error that directly resulted in the late submission of the Application in AMIS.
Employer Identification Number (EIN)	• Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization. • The EIN in the Applicant's AMIS account must match the EIN in the Applicant's System for Award Management (SAM) account. The CDFI Fund reserves the right to reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its SAM account. • Applicants must enter their EIN into their AMIS profile by the deadline specified in Tables 1 and 6.
Dun & Bradstreet, (DUNS) number	• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in *Grants.gov.* • The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization. • The DUNS number in the Applicant's AMIS account must match the DUNS number in the Applicant's *Grants.gov* and SAM accounts. The CDFI Fund will reject an Application if the DUNS number in the Applicant's AMIS account does not match the DUNS number in its *Grants.gov* and SAM accounts. • Applicants must enter their DUNS number into their AMIS profile on or before the deadline specified in Tables 1 and 6. • For Applicants applying as a partnership, the DUNS number of the designated lead Certified CDFI Applicant in AMIS must match the DUNS number on the SF–424 submitted through *Grants.gov.*
System for Award Management (SAM)	• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. • Applicants must register in SAM as part of the *Grants.gov* registration process. • Applicants must have a DUNS number and an EIN number in order to register in SAM. • Applicants must be registered in SAM in order to submit an SF–424 in *Grants.gov.* • The CDFI Fund reserves the right to deem an Application ineligible if the Applicant's SAM account expires during the Application evaluation period, or is set to expire before September 30, 2021, and the Applicant does not re-activate, or renew, as applicable, the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.
AMIS Account	• The Authorized Representative and/or Application Point of Contact must be included as ''users'' in the Applicant's AMIS account. • An Applicant that fails to properly update its AMIS account may miss important communication from the CDFI Fund and/or may not be able to successfully submit an Application.
501(c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive a SDL Program grant.

TABLE 5—ELIGIBILITY REQUIREMENTS FOR SDL PROGRAM APPLICANTS—Continued

Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.
Depository Institution Holding Companies (DIHC) [3] Applicant.	• In the case where a Certified CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Subsidiary Certified CDFI Insured Depository Institution, the Application must be submitted by the Certified CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary Certified CDFI Insured Depository Institution. • If a Certified CDFI Depository Institution Holding Company and its Certified CDFI Subsidiary Insured Depository Institution both apply for a SDL Program grant, only the Depository Institution Holding Company will receive an award, not both. In such instances, the Subsidiary Insured Depository Institution will be deemed ineligible. • Authorized Representatives of both the Depository Institution Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the award funds will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Use of award	• All awards made through this NOFA must be used to support the Applicant's activities in at least one of the Eligible Activity Categories (see Section II. (D)). • With the exception of Depository Institution Holding Company Applicants, awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent. • The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 C.F.R. 200.216 of the Uniform Requirements, with respect to any Direct Costs. • For Applicants applying as a partnership, only the designated lead Certified CDFI may use the award to carry out the activities of the award.
Requested award amount	• An Applicant must state its requested award amount in the Application in AMIS. An Applicant that does not include this amount will not be allowed to submit an Application.
Pending resolution of noncompliance	• If an Applicant (or Affiliate of an Applicant) that is a prior recipient or allocatee under any CDFI Fund program: (i) Has demonstrated it has been in noncompliance with a previous assistance agreement, award agreement, allocation agreement, bond loan agreement, or agreement to guarantee and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with or default of its previous agreement, the CDFI Fund will consider the Applicant's Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance.
Noncompliance or default status	• The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund award recipient or allocatee under any CDFI Fund program if, as of the AMIS Application deadline in this NOFA, (i) the CDFI Fund has made a final determination in writing that such Applicant (or Affiliate of such Applicant) is in noncompliance with or default of a previously executed assistance agreement, award agreement, allocation agreement, bond loan agreement, or agreement to guarantee, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. • The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.
Debarment/Do Not Pay Verification	• The CDFI Fund will conduct a debarment check and will not consider an Application submitted by an Applicant if the Applicant (or Affiliate of an Applicant) is delinquent on any Federal debt. • The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. The Do Not Pay Business Center provides delinquency information to the CDFI Fund to assist with the debarment check.
Regulated Institutions [4]	• Each Regulated Institution SDL Program Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator (collectively referred to as "CAMELS/CAMEL rating") of a "1", "2", or "3". • SDL Program Applicants with CAMELS/CAMEL ratings of "4" or "5" will not be eligible for awards. • The CDFI Fund will also evaluate material concerns identified by the Appropriate Federal Banking Agency in determining the eligibility of Regulated Institution Applicants.

Any Applicant that does not meet the criteria in Table 5 is ineligible to apply for an SDL Program Award under this NOFA.

C. Contacting the CDFI Fund: Accordingly, Applicants that are prior Recipients and/or allocatees under any CDFI Fund program are advised to comply with requirements specified in an Assistance Agreement, allocation agreement, bond loan agreement, or agreement to guarantee, and to ensure their Affiliates are in compliance with any agreements. All outstanding reporting and compliance questions should be directed to the Office of Certification, Compliance Monitoring and Evaluation help desk by AMIS Service Requests or by telephone at (202) 653–0421; except in the case of SDL Program reporting and compliance questions, which should be directed to the SDL Program help desk by completing a Service Request through AMIS using ''Small Dollar Loan Program'' for the Service Request program. Alternatively, the public can contact SDL Program staff via email at *SDLP@cdfi.treas.gov* or by telephone at (202) 653–0421. The CDFI Fund will not respond to Applicants' reporting, compliance, or disbursement telephone calls or email inquiries that are received after 5:00 p.m. ET on June 25, 2021 until after the Application deadline. The CDFI Fund will respond to technical issues related to AMIS Accounts through 5:00 p.m. ET on June 29, 2021, via AMIS Service Requests, or at *AMIS@cdfi.treas.gov,* or by telephone at (202) 653–0422.

D. Matching Funds Requirements: The Matching Funds requirement for SDL Program Applicants was waived in the final FY 2020 and 2021 appropriations. Therefore, SDL Program Applicants are not required to provide Matching Funds.

E. Other Eligibility Criteria:

1. How Affiliated Entities Can Submit an Application: As part of the Application review process, the CDFI Fund considers whether Applicants are Affiliates, as such term is defined in 12 CFR1807.104. If an Applicant and its Affiliate(s) wish to submit an Application, they must do so through one of the Affiliated entities, in one Application; an Applicant and its Affiliates may not submit separate Applications. If Affiliates submit multiple or separate Applications, the CDFI Fund may, at its discretion, reject all such Applications received or select only one of the submitted Applications to deem eligible, assuming that Application meets all other eligibility criteria in Section III of this NOFA.

Furthermore, an Applicant that receives an award in this SDL Program round may not become an Affiliate of another Applicant that receives an award in this SDL Program round at any time after the submission of an SDL Program Application under this NOFA. This requirement will also be a term and condition of the Assistance Agreement (see Application Frequently Asked Questions on the CDFI Fund's website at *http://www.cdfifund.gov/sdlp* for more details).

2. An Applicant will not be eligible to receive an SDL Program Award if the Applicant ails to demonstrate in the Application that its SDL Program Award would be used to establish or maintain a small dollar loan program that offers small dollar loans to consumers that:

a. Are made in amounts that do not exceed $2,500;

b. must be repaid in installments;

c. have no prepayment penalty; and

d. have payments that are reported to at least one of the consumer reporting agencies that complies and maintain files on consumers on a nationwide basis.

3. Prohibited Practices. SDL Program Awards will not support small dollar loan programs that have the lending practices and loan characteristics listed in Table 2.

IV. Application and Submission Information

A. Address to Request Application Package: Application materials can be found on the *Grants.gov* and the CDFI Fund's website at *www.cdfifund.gov/sdlp.* Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk by email at *sdlp@cdfi.treas.gov* or by telephone at (202) 653–0421.

B. Content and Form of Application Submission: The CDFI Fund will post to its website, at *www.cdfifund.gov/sdlp,* instructions for accessing and submitting an Application. Detailed Application content requirements are found in the Application and related guidance documents.

All Applications must be prepared in English and calculations must be made in U.S. dollars. Table 6 lists the required funding Application documents for the FY 2021 SDL Program Round. Applicants must submit all required documents for the Application to be deemed complete. Please be aware that an Applicant that fails to submit audited financial statements for its three most recently completed fiscal years will be deemed as not having a complete Application and will be considered ineligible. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Information submitted must accurately reflect the Applicant's activities and/or its Subsidiary Insured Depository Institution, in the case where the Applicant is an Insured Depository Institution Holding Company.

TABLE 6—FUNDING APPLICATION DOCUMENTS

Application document	Submission format	Required?
Standard Form (SF) 424 Mandatory Form	Fillable PDF in *Grants.gov*	Required for all Applicants.
SDL Program Application	AMIS	Required for all Applicants.
Attachments to the Application		
Audited financial statements (three most recently completed fiscal years prior to the publication date of this NOFA).	PDF in AMIS	Required only for Loan funds, venture capital funds, and other non-Regulated Institutions.

[3] Depository Institution Holding Company or DIHC means a Bank Holding Company or a Savings and Loan Holding Company.

[4] Regulated Institutions include Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions and Depository Institution Holding Companies.

TABLE 6—FUNDING APPLICATION DOCUMENTS—Continued

Application document	Submission format	Required?
Management Letter for the Applicant's Most Recently Completed Fiscal Year. The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual audited financial statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the audit itself. Statement(s) in Lieu of Management Letter for Applicant's Most Recently Completed Fiscal Year issued by the Board Treasurer or other Board member using the template provided in the Application materials (required only if Management Letters are not available for audited financial statements).	PDF in AMIS	Required only for Loan funds, venture capital funds, and other non-Regulated Institutions.
Year-end call reports for Applicant's three most recently completed fiscal years prior to the publication date of the NOFA (for additional guidance see FAQ).	PDF in AMIS	Required only for Regulated Institutions.
A Qualified Federally Insured Depository Institution Partnership Attestation Form demonstrating that the federally insured depository institution has a primary mission of serving targeted Investment Areas.	PDF in AMIS	Required only for a federally insured depository institution that is applying as a partnership with a Certified CDFI for an LLR award.
A Partnership Agreement between a Certified CDFI and federally insured depository institution that has a primary mission of serving targeted Investment Areas applying for an LLR award *or* a partnership between or among two or more Certified CDFIs applying for a TA award detailing the terms of their partnership to establish or maintain a small dollar loan program.	PDF in AMIS	Required only for: (1) A federally insured depository institution and a Certified CDFI applying for an LLR award; and (2) two or more Certified CDFIs that are applying as a partnership for a TA award.

The CDFI Fund has a sequential, two-step process that requires the submission of Application documents in separate systems and on separate deadlines. The SF–424 form must be submitted through *Grants.gov* and all other Application documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved by the CDFI Fund. The separate Application deadlines for the SF–424 and all other Application materials are listed in Tables 1 and 6. Only the Authorized Representative for the Organization or Application Point of Contact designated in AMIS may submit the Application through AMIS.

Applicants are strongly encouraged to submit the SF–424 as early as possible through *Grants.gov* in order to provide sufficient time to resolve any potential submission issues.

Applicants should contact *Grants.gov* directly with questions related to the registration or submission process, as the CDFI Fund does not administer the *Grants.gov* system.

The CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible, as it may take several weeks to complete (refer to the following link: *http://www.grants.gov/web/grants/register.html*). An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. If an Applicant has not previously registered with *Grants.gov,* it must first successfully register in *SAM.gov*, as described in Section IV.D below.

C. Dun and Bradstreet Data Universal Numbering System: Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission a valid Dun & Bradstreet Data Universal Numbering System (DUNS) number. Any Applicant without a DUNS number will not be able to register in the System for Award Management (SAM) or register and submit an Application in the *Grants.gov* system. Please allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

D. System for Award Management: Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application materials through that platform. When accessing *SAM.gov,* users will be asked to create a *login.gov* user account (if they do not already have one). Going forward, users will use their *login.gov* username and password every time when logging into *SAM.gov.* The SAM registration process can take four weeks or longer to complete so Applicants are strongly encouraged to begin the registration process upon publication of this NOFA in order to avoid potential Application submission issues. An original, signed notarized letter identifying the authorized entity administrator for the entity associated with the DUNS number is required by SAM and must be mailed to the Federal Service Desk. This requirement is applicable to new entities registering in SAM, as well as existing entities with registrations being updated or renewed in SAM. Applicants that have previously completed the SAM registration process must verify that

their SAM accounts are current and active.

Applicants are required to maintain a current and active SAM account at all times during which it has an active Federal award or an Application under consideration for an award by a Federal awarding agency.

The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit its Application by the Application deadline. Applicants must contact SAM directly with questions related to registration or SAM account changes, as the CDFI Fund does not maintain this system. For more information about SAM, please visit *https://www.sam.gov* or call 866–606–8220.

TABLE 7—*Grants.gov* REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number	Dun & Bradstreet	One Week.*
Register in *SAM.gov*	System for Award Management (SAM)	Four Weeks.*
Register in *Grants.gov*	*Grants.gov*	One Week.**

* Applicants are advised that the stated duration are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS number, and/or fails to properly register in *Grants.gov.*

** This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov.*

E. Submission Dates and Times:

1. Submission Deadlines: Table 8 lists the deadlines for submission of the documents related to the FY 2021 SDL Program Funding Round:

TABLE 8—FY 2020 SDL PROGRAM DEADLINES FOR APPLICANTS

Document	Deadline	Time—eastern time (ET)	Submission method
SF–424 Mandatory form	May 28, 2021	11:59 p.m.	Electronically via *Grants.gov.*
Create AMIS Account (if the Applicant does not already have one).	May 28, 2021	11:59 p.m.	Electronically via AMIS.
SDL Program Application and Required Attachments	June 29, 2021	5:00 p.m.	Electronically via AMIS.

2. Confirmation of Application Submission in Grants.gov and AMIS: Applicants are required to submit the SF–424 Mandatory Form through the *Grants.gov* system under the FY 2021 SDL Program Funding Opportunity Number (listed at the beginning of this NOFA). All other required Application materials must be submitted through the AMIS website. Application materials submitted through each system are due by the applicable deadline listed in Table 6. Applicants must submit the SF–424 by an earlier deadline than that of the other required Application materials in AMIS. If a valid SF–424 is not submitted through *Grants.gov* by the corresponding deadline, the Applicant will not be able to submit the additional Application materials in AMIS, and the Application will be deemed ineligible. Thus, Applicants are strongly encouraged to submit the SF–424 as early as possible in the *Grants.gov* portal, given that potential submission issues may impact the ability to submit a complete Application.

(a) *Grants.gov* Submission Information: Each Applicant will receive an initial email from *Grants.gov* immediately after submitting the SF–424, confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within forty-eight (48) hours, the Applicant will receive a second email which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by checking *Grants.gov* directly. The Application materials submitted in AMIS are not accepted by the CDFI Fund until *Grants.gov* has validated the SF–424. In the *Grants.gov* Workspace function, please note that the Application package has not been submitted if you have not received a tracking number.

(b) AMIS Submission Information: AMIS is a web-based portal where Applicants will directly enter their Application information and add required attachments listed in Table 6. Each Applicant must register as an organization in AMIS in order to submit the required Application materials through this portal. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages the Applicant to allow sufficient time to confirm the Application content, review the material submitted, and remedy any issues prior to the Application deadline. Applicants can only submit one Application in AMIS. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple AMIS Application submissions.

Prior to submission, each Application in AMIS must be signed by an Authorized Representative. An Authorized Representative is an employee or officer and has the authority to legally bind and make representations on behalf of the Applicant; consultants working on behalf of the Applicant cannot be designated as Authorized Representatives. The Applicant may include consultants as Application point(s) of contact, who will be

included on any communication regarding the Application and will be able to submit the Application but cannot sign the Application. The Authorized Representative and/or Application point(s) of contact must be included as ''Contacts'' in the Applicant's AMIS account. The Authorized Representative must also be a ''user'' in AMIS. An Applicant that fails to properly register and update its AMIS account may miss important communications from the CDFI Fund or fail to submit an Application successfully. Only an Authorized Representative for the organization or an Application point of contact can submit the Application in AMIS. After submitting its Application, the Applicant will not be permitted to revise or modify its Application in any way or attempt to negotiate the terms of an Award.

3. Multiple Application Submissions: Applicants are only permitted to submit one complete Application. However, the CDFI Fund does not administer *Grants.gov*, which does allow for multiple submissions of the SF–424. If an Applicant submits multiple SF–424 Applications in *Grants.gov*, the CDFI Fund will only review the SF–424 Application submitted in *Grants.gov* that is attached to the AMIS Application. Applicants can only submit one Application through AMIS.

4. Late Submission: The CDFI Fund will not accept an SF–424 submitted after the applicable *Grants.gov* or AMIS Application submitted after the AMIS Application deadline, except where the submission delay was a direct result of a Federal government administrative or Federal government technological error. This exception includes any errors associated with *Grants.gov, SAM.gov,* AMIS or any other applicable government system. Please note that this exception does not apply to errors arising from obtaining a DUNS number from Dun & Bradstreet, which is not a government entity. An Applicant unable to make timely submission of its Application due to any errors in the process of obtaining a DUNS number will not be allowed to submit its Application after the Application deadline has passed.

(a) SF–424 Late Submission: In cases where a Federal government administrative or Federal government technological error directly resulted in the late submission of the SF–424, the Applicant must submit a written request for acceptance of the late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to requests for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS service request to the SDL Program with a subject line of ''Late SF–424 Submission Request—Small Dollar Loan Program.''

(b) Application Late Submission: In cases where a Federal government administrative or Federal government technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS service request to the SDL Program with a subject line of ''Late Application Submission Request—Small Dollar Loan Program.''

5. Intergovernmental Review: Not Applicable.

6. Funding Restrictions: SDL Program Awards are limited by the following:

(a) A Recipient shall use SDL Program Award funds only for the eligible activities set forth in the Application and as described in Section II.B and Section II.D of this NOFA and its Assistance Agreement.

(b) A Recipient may not disburse SDL Program Award funds to an Affiliate, Subsidiary, or any other entity in any manner that would create a Subrecipient relationship (as defined in the Uniform Requirements) without the CDFI Fund's prior written approval.

(c) SDL Program Award dollars shall only be paid to the Recipient.

(d) The CDFI Fund, in its sole discretion, may pay SDL Program Awards in amounts, or under terms and conditions, which are different from those requested by an Applicant. However, the CDFI Fund will not grant an Award in excess of the amount requested by the Applicant.

V. Application Review Information

A. Criteria: All complete and eligible Applications will be reviewed in accordance with the criteria and procedures described in this NOFA, the Application guidance, and the Uniform Requirements. As part of the review process, the CDFI Fund reserves the right to contact the Applicant by telephone, email, mail, or through an on-site visit for the sole purpose of clarifying or confirming Application information at any point during the review process. The CDFI Fund reserves the right to collect such additional information from Applicants as it deems appropriate. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or its Application may be rejected. The CDFI Fund will review the SDL Program Applications in accordance with the process below. All CDFI Fund reviewers will complete the CDFI Fund's conflict of interest process.

B. *Review and Selection Process:* The CDFI Fund will evaluate each complete and eligible Application using the multi-phase review process described in this Section. Where appropriate, the CDFI Fund will use different criteria in order to evaluate the financial health, capacity, and strategies of the Applications based on the proposed use(s) of the SDL Program Award. These differences are noted in the following sections and the Application Instructions. Applicants that meet the minimum criteria will advance to the next step in the review process.

1. Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section III of this NOFA.

2. Financial Analysis and Compliance Risk Evaluation:

i. Financial Analysis: For Regulated Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 5, each Regulated Institution SDL Program Applicant must have a CAMELS/CAMEL rating of a ''1'', ''2'', or ''3'', and no significant material concerns from its regulator.

For non-regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each non-regulated Applicant using the Application Assessment Tool and the financial information provided by the Applicant. For the Financial Analysis, each non-regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to the Business Strategy and Community Impact Review phase. CDFI Fund staff will review and confirm the scores for Applications that receive an initial Total Financial Composite Score of four (4) or five (5). If the Total Financial Composite Score remains four (4) or five (5) after CDFI

Fund staff review, the Applicant will not advance to the Business Strategy and Community Impact Review phase.

ii. Compliance Risk Evaluation: For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the Applicant's PG&Ms for all CDFI Fund awards. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. CDFI Fund staff will review and confirm the scores for Applications that receive an initial Total Compliance Composite Score of four (4) or five (5). If the Applicant is deemed a high compliance risk after CDFI Fund Staff review, the Applicant will not advance to the Business Strategy and Community Impact Review phase.

3. Business Strategy and Community Impact Review: Applicants that proceed to this phase will be evaluated on the soundness of their proposed business strategy and community impact. Applicants will receive a Total Business Strategy and Community Impact Review Score equivalent to ''Low Risk'', ''Medium Risk'' or ''High Risk''. Applicants must receive a Total Business Strategy and Community Impact Review Score that is equivalent to a ''Low Risk'' or ''Medium Risk'' to move forward to the Final Award Decision and Award Amount Determination Stage. Applicants that receive an overall rating of ''High Risk'' in this Review will not move forward to the Final Award Decision and Award Amount Determination stage, and will not receive further consideration for an SDL Program Award.

In the Business Strategy and Community Impact section, the CDFI Fund will review and evaluate: (i) The needs of communities and persons in the areas the Applicant proposes to serve with an SDL Program Award and the extent to which the proposed strategy addresses these needs; (ii) the small dollar lending and financing gaps addressed by its business strategy; (iii) the projected SDL Program activities and track record; (iv) the role the SDL Program Award plays in its financing strategy and the expected community impact that will be sought as a result of the proposed program. Expected community impacts may include improved financial strength and stability for low-income and underserved people and/or improved borrower delinquency rate and/or improved credit history and credit scores and/or access to mainstream financial products and expanded activity in other credit facilities (*e.g.,* borrower received an auto loan) and/or continued access to financial education, including credit counseling and/or help to create or preserve savings and/or help borrowers consolidate or reduce debt at a lower cost.

a. For the Applicant requesting an Award for LLR, the Applicant will discuss how the LLR will be used to launch a small dollar loan program or increase the volume of its existing small dollar program that meets the statutory and other requirements described in this NOFA. The Applicant will also describe its strategy and structure of the LLR account. Further, the Applicant will discuss the anticipated loss rate that these reserves will cover and how this was estimated.

b. For the Applicant applying for a TA Award, the Applicant will describe the strategy for how a TA Award will be used to launch a small dollar loan program or increase the volume of its existing small dollar program that meets the statutory and other requirements described in this NOFA. The Applicant will include information about intended uses, such as: Technology support, including software and peripherals and/or staff support, including salary and training and/or credit monitoring and reporting capability and/or marketing or promotional support and/or fees for consultants and/or audit or oversight costs.

Within the Business and Community Impact Strategy Section, an Applicant will generally be deemed a lower risk to the extent that it: (i) Clearly aligns its proposed SDL Program Award activities and products with the small dollar needs and financing gaps it identifies; (ii) demonstrates that its strategy and activities will result in more favorable financing rates and terms for borrowers; (iii) demonstrates that its projected activities are achievable based on the Applicant's strategy and track record and demonstrates an increase in its small dollar lending; (iv) describes a clear process for selecting borrowers that have a clear need for its small dollar loan program financing; and (v) has a credible pipeline of borrowers. An Applicant will generally score more favorably to the extent it has a volume of projected activities supported by its track record. An Applicant will also score favorably if its small dollar loan program offers one or more of the following lending practices and loan characteristics that promote affordable and responsible small dollar lending: The loan term is at least ninety (90) days, and/or it considers the borrower's ability to repay by assessing both the borrower's income and expenses (*i.e.,* base lending on a borrower's ability to repay according to the terms of the loan, while meeting other expenses, without needing to refinance/re-borrow, and without relying on collateral), and/or loan decisions are made within one business day (twenty-four (24) hours) after receipt of required documents, and/or the borrower receives a reduction in its loan rate if s/he uses automatic debit payments, and/or the Applicant's small dollar loan program offers automatic savings features, and/or the Applicant offers access to financial education, including credit counseling.

4. Final Award Decision and Award Amount Determination: During this last phase, the CDFI Fund will review all SDL Program Applications that make it to this step to ensure adherence with the SDL Program's policies and procedures as well as applicable Federal regulations. The CDFI Fund will also review the Applicant's management team and key staff, compliance status, eligibility, due diligence, and regulatory matters. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing Federal awards (including timeliness of reporting and compliance), audit or regulator findings, and the Applicant's ability to effectively implement Federal requirements. For Applicants applying for awards to establish a small dollar loan program, the CDFI Fund will also consider the Applicant's ability to start a new small dollar loan program. If an Applicant is found to be a significant risk as a result of the due diligence review, the CDFI Fund may eliminate the Applicant from consideration for an SDL Program Award.

The CDFI Fund will determine award amounts for Applications based on the due diligence performed, the Applicant's requested amount, and certain other factors, including but not limited to, the Applicant's three-year projected total small dollar loans to be closed, minimum award size, Applicants that offer one or more of the preferred lending practices and loan characteristics stated in this NOFA that promote affordable and responsible small dollar lending, Applicants that have headquarters (as stated in the Applicant's Application) located in PPCs, an Applicant's risk rating level, and funding availability. Award amounts may be reduced from the requested award amount as a result of the above factors.

5. Regulated Institutions: The CDFI Fund will consider safety and soundness information from the

Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

6. Non-Regulated Institutions: The CDFI Fund must ensure, to the maximum extent practicable, that Applicants which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

C. Anticipated Award Announcement: The CDFI Fund anticipates making the SDL Program Award announcement before September 30, 2021. However, the anticipated award announcement date is subject to change without notice.

D. Application Rejection: The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects an Applicant's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund's award decisions are final, and there is no right to appeal decisions.

VI. Federal Award Administration Information

A. Award Notification: Each successful Applicant will receive notification from the CDFI Fund stating that its Application has been approved for an Award. Each Applicant not selected for an Award will receive notification and be provided a debriefing document in its AMIS account.

B. Administrative and Policy Requirements Prior to Entering into an Assistance Agreement: The CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the Award or take other actions as it deems appropriate if, prior to entering into an Assistance Agreement, information (including an administrative error) comes to the CDFI Fund's attention that adversely affects the following: The Recipient's eligibility for an Award; the CDFI Fund's evaluation of the Application; the Recipient's compliance with any requirement listed in the Uniform Requirements; or indicates fraud or mismanagement on the Recipient's part, including mismanagement of another Federal award.

If the Recipient's certification status as a CDFI changes prior to entering into an Assistance Agreement, the CDFI Fund reserves the right, in its sole discretion, to re-calculate the SDL Program Award, or modify the Assistance Agreement based on the Recipient's non-CDFI status.

By receiving notification of a SDL Program Award, the Recipient agrees that, if the CDFI Fund becomes aware of any information (including an administrative error) prior to the Effective Date of the Assistance Agreement that either adversely affects the Recipient's eligibility for an SDL Program Award, or adversely affects the CDFI Fund's evaluation of the Recipient's Application, or indicates fraud or mismanagement on the part of the Recipient, the CDFI Fund may, in its discretion and without advance notice to the Recipient, rescind the notice of award or take other actions as it deems appropriate.

The CDFI Fund reserves the right, in its sole discretion, to rescind an Award if the Recipient fails to return the Assistance Agreement, signed by an Authorized Representative of the Recipient, and/or provide the CDFI Fund with any other requested documentation, within the CDFI Fund's deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA for any criteria described in Table 9:

TABLE 9—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements	• If an Applicant received a prior award or allocation under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award, allocation, bond loan agreement(s), or agreement to guarantee, as of the date of the notice of award, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement and/or to delay making a Payment of SDL Program Award, until said prior Recipient or allocatee is current on the reporting requirements in the previously executed assistance, award, allocation, bond loan agreement(s), or agreement to guarantee. • If such a prior Recipient or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the SDL Program Award made under this NOFA. • Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete, nor that it met reporting requirements. If said prior Recipient or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of Award and the SDL Program Award made under this NOFA.

TABLE 9—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT—Continued

Requirement	Criteria
Failure to maintain CDFI Certification (if applicable).	• A Recipient must be a Certified CDFI as is defined in the SDL Program Application and this NOFA, prior to entering into an Assistance Agreement. • If, at any time prior to entering into an Assistance Agreement under this NOFA, an Applicant that is a Certified CDFI has submitted reports (or failed to submit an annual certification report as instructed by the CDFI Fund) to the CDFI Fund that demonstrate noncompliance with the requirements for certification, but the CDFI Fund has yet to make a final determination regarding whether or not the entity is Certified, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement and/or to delay making a Payment of SDL Program Award, pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. • If the Applicant is unable to meet this requirement, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the SDL Program Award made under this NOFA.
Pending resolution of noncompliance	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI Fund award(s), allocation(s), bond loan agreement(s), or agreement(s) to guarantee. • If said prior Recipient or allocatee is unable satisfactorily resolve the compliance issues, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the SDL Program Award made under this NOFA.
Default or Noncompliance status	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that an Applicant (or an Affiliate of the Applicant) that is a prior CDFI Fund Recipient or allocatee under any CDFI Fund program is noncompliant or found in default with any previously executed CDFI Fund award or Assistance agreement(s) and the CDFI Fund has provided written notification that the Applicant is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may, in its sole discretion, delay entering into an Assistance Agreement with Applicant until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified in writing within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may modify or rescind all or a portion of the SDL Program Award made under this NOFA.
Compliance with Federal civil rights requirements.	• If, prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Do Not Pay	• The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient (or Affiliate of a Recipient) is determined to be ineligible based on data in the Do Not Pay database. • The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government.
Safety and soundness	• If it is determined that the Recipient is or will be incapable of meeting its SDL Program Award obligations, the CDFI Fund will deem the Recipient to be ineligible or require it to improve safety and soundness conditions prior to entering into an Assistance Agreement.

C. Assistance Agreement: Each Applicant that is selected to receive an award under this NOFA must enter into an Assistance Agreement with the CDFI Fund in order to become a Recipient and receive Payment. Each SDL Program Assistance Agreement has a three-year Period of Performance.

1. The Assistance Agreement will set forth certain required terms and conditions of the SDL Program Award, which will include, but not be limited to:

(a) The amount of the award;

(b) The approved uses of the award;

(c) Performance goals and measures; and

(d) Reporting requirements for all Recipients.

2. Prior to executing the Assistance Agreement, the CDFI Fund may, in its discretion, allow Recipients to request changes to certain performance goals and measures. The CDFI Fund, in its sole determination, may approve or reject these requested changes or propose other modifications, including a reduction in the Award amount. The CDFI Fund will only approve performance goals and measures if it determines that such requested changes do not undermine the competitive process upon which the SDL Program Award determination was made. Any modifications agreed upon prior to the execution of the Assistance Agreement will become a condition of the Award.

3. The Assistance Agreement shall provide that, prior to any determination by the CDFI Fund that a Recipient has failed to comply substantially with the SDL Program statute or the environmental quality regulations, the CDFI Fund shall provide the Recipient with reasonable notice and opportunity for hearing. If the Recipient fails to comply substantially with the Assistance Agreement, the CDFI Fund may:

(a) Require changes in the performance goals set forth in the Assistance Agreement;

(b) Reduce or terminate the SDL Program Award; or

(c) Require repayment of any SDL Program Award that has been distributed to the Recipient.

4. The Assistance Agreement shall also provide that, if the CDFI Fund determines noncompliance with the terms and conditions of the Assistance Agreement on the part of the Recipient, the CDFI Fund may:

(a) Bar the Recipient from reapplying for any assistance from the CDFI Fund; or

(b) Take such other actions as the CDFI Fund deems appropriate or as set forth in the Assistance Agreement.

5. In addition to entering into an Assistance Agreement, each Applicant selected to receive a SDL Program Award must furnish to the CDFI Fund a certificate of good standing from the jurisdiction in which it was formed. The CDFI Fund may, in its sole discretion, also require the Applicant to furnish an opinion from its legal counsel, the content of which may be further specified in the Assistance Agreement, and which, among other matters, opines that:

(a) The Recipient is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it transacts business;

(b) The Recipient has the authority to enter into the Assistance Agreement and undertake the activities that are specified therein;

(c) The Recipient has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Assistance Agreement;

(d) The Recipient is not in default of its articles of incorporation or formation, bylaws or operating agreements, other organizational or establishing documents, or any agreements with the Federal government; and

(e) The Recipient is exempt from Federal Income taxation pursuant to the Internal Revenue Code of 1986.

D. Paperwork Reduction Act: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the SDL Program Application has been assigned the following control number: 1559–0036.

E. Reporting: The CDFI Fund will require each Recipient that receives a SDL Program Award through this NOFA to account for and report to the CDFI Fund on the use of the SDL Program Award. This will require Recipients to establish administrative controls, subject to the Uniform Requirements and other applicable OMB guidance. The CDFI Fund will collect information from each such Recipient on its use of the SDL Program Award annually following Payment and more often if deemed appropriate by the CDFI Fund in its sole discretion. The CDFI Fund will provide guidance to Recipients outlining the format and content of the information required to be provided to describe how the funds were used.

The CDFI Fund may collect information from each Recipient including, but not limited to, an annual report with the components listed in Table 10:

TABLE 10—REPORTING REQUIREMENTS

Criteria	Description
Single Audit (if applicable)	A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (2 CFR 200.500) if it expends $750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.500. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F-Audit Requirements in the Uniform Requirements) and optionally through AMIS.
Financial Statement Audit	For-profit and nonprofit Recipients must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.
Uses of Award Report	The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its SDL Program grant through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Uses of Award Report. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the SDL Program grant, the Depository Institution Holding Company must submit a Uses of Award Report.
Performance Progress Report	The Recipient must submit the Performance Progress Report through AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its SDL Program grant through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Performance Progress Report. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the SDL Program grant, the Depository Institution Holding Company must submit a Performance Progress Report.

* Personally Identifiable Information (PII) is information, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Although Applicants are required to enter addresses of homes and other properties in AMIS, Applicants should *not* include the following PII for the individuals who received the financial products or services in AMIS or in the supporting documentation (*i.e.*—name of the individual, Social Security Number, driver's license or state identification number, passport number, Alien Registration Number, etc.). This information should be redacted from all supporting documentation (if applicable).

Each Recipient is responsible for the timely and complete submission of the annual reporting documents. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements set forth in the Assistance Agreement and to assess the impact of the SDL Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

F. Financial Management and Accounting: The CDFI Fund will require Recipients to maintain financial management and accounting systems

that comply with Federal statutes, regulations, and the terms and conditions of the SDL Program Award. These systems must be sufficient to permit the preparation of reports required by general and program specific terms and conditions, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with the Federal statutes, regulations, and the terms and conditions of the SDL Program Award.

The cost principles used by Recipients must be consistent with Federal cost principles; must support the accumulation of costs as required by the principles; and must provide for adequate documentation to support costs charged to the SDL Program Award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes and regulations, the Assistance Agreement, and related guidance; evaluate and monitor compliance; take action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. Availability: The CDFI Fund will respond to questions and provide support concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the date of the publication of this NOFA until the close of business on the third business day preceding the Application deadline. The CDFI Fund will not respond to questions or provide support concerning the Application that are received after 5:00 p.m. ET on said date, until after the Application deadline. CDFI Fund IT support will be available until 5:00 p.m. ET on date of the Application deadline. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov/sdlp.* The CDFI Fund will post on its website responses to questions of general applicability regarding the SDL Program.

B. *The CDFI Fund's contact information is listed in Table 11:*

TABLE 11—CONTACT INFORMATION

Type of question	Preferred method	Telephone number (not toll free)	Email addresses
SDL Program	Submit a Service Request in AMIS	202–653–0421	*sdlp@cdfi.treas.gov.*
CDFI Certification	Submit a Service Request in AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
Compliance Monitoring and Evaluation	Submit a Service Request in AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
Information Technology Support	Submit a Service Request in AMIS	202–653–0422	*AMIS@cdfi.treas.gov.*

The preferred method of contact is to submit a Service Request within AMIS. For an SDL Program Application question, select ''Small Dollar Loan Program'' for the program. For a CDFI Certification question, select ''Certification.'' For a Compliance question, select ''Compliance & Reporting.'' For Information Technology, select ''Technical Issues.'' Failure to select the appropriate program for the Service Request could result in delays in responding to your question.

C. Communication with the CDFI Fund: The CDFI Fund will use AMIS to communicate with Applicants and Recipients, using the contact information maintained in their respective AMIS accounts. Therefore, the Recipient and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact persons and Authorized Representatives, email addresses, fax numbers, phone numbers, and office addresses) in its AMIS account(s). For more information about AMIS please see the Help documents posted at *https://amis.cdfifund.gov/s/Training.*

D. Civil Rights and Diversity: Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

E. Statutory and National Policy Requirements: The CDFI Fund will manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, statutory, and public policy requirements: Including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

VIII. Other Information

None.

Authority: Pub. L. 110–289. 12 U.S.C. 4701, 12 CFR part 1805, 12 CFR part 1807, 12 CFR part 1815, 12 U.S.C. 4502.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2021–08848 Filed 4–28–21; 8:45 am]

BILLING CODE 4810–05–P

DEPARTMENT OF THE TREASURY

Engraving and Printing Bureau

Agency Information Collection Activities; Proposed Collection; Comment Request; Bureau of Engraving and Printing Background Information Request Form

AGENCY: Bureau of Engraving and Printing, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 28, 2021.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Crystal Johnson by emailing the Banknote Equipment Manufacturer and Currency Reader Manufacturers Support office at

BEM_and_CRM_Customer_Support@bep.gov, calling (202) 664–3466, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Bureau of Engraving and Printing Background Investigation Request Form.

OMB Control Number: 1525–NEW.

Type of Review: New Collection.

Description: The Background Information Request Form for is completed by applicant companies per BEP Circular 82–00.13 to establish the eligibility of each company and key personnel to gain access to test decks of new designs and production samples of Federal Reserve Notes so they can update their products to denominate and/or authenticate genuine currency. The applicant companies are Banknote Equipment Manufacturers (BEMs) and Currency Reader Manufacturers (CRMs). Banknote Equipment Manufacturers (BEMs) are companies that produce any type of equipment that handles banknotes for commercial purposes involving accept/reject decisions for FRNs. Currency Reader Manufacturers (CRMs) are companies that produce a commercially available device or application designed for the purpose of denominating US currency by an individual.

Form: None.

Affected Public: Banknote Equipment Manufacturers and Currency Reader Manufacturers and their employees.

Estimated Number of Respondents: 150.

Frequency of Response: on occasion.

Estimated Total Number of Annual Responses: 50.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 37.5.

Request for comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: April 26, 2021.

Katherine A. Allen,

BEP PRA Clearance Officer.

[FR Doc. 2021–08964 Filed 4–28–21; 8:45 am]

BILLING CODE 4840–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending March 31, 2021. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

Last name	First name	Middle name/initials
ALTANIAN	KEVORK	
AMUNDSEN	CHERYL	LYNN
ANDRE	VERONIQUE	M
Androutsos	Michael Michail	
Arora	Anu	
BARRETT	ADRIAN	JOSEPH
BEAUDIN	SUSAN	MARIE
BECKMANN	LESLIE	MICHEL
BIANCHI	ROBERTO	
BIELITZA	MARC	PHILIPP
BLISS	ANDREW	CHRISTOPHER
BLUNDELL	NICOLA	A
BOLTE	MATHIEU	
BOWEN	PHILLIP	GEORGE FAWCETT
BOWMAN	CLAIRE	DANIELLE
BUORA	JACOPO	
CARDUCCI	MARGIE	
CARO	INGRID	
CERBULIS	KARLIS	ANDREJS
CERIMOVIC	AMIRA	
CHAI	CHANGHOON	
CHEN	HAIHUI	
CHEN	HSIU–MIN	
CHIASSON	NATHALIE	A
CLARK	SAMANTHA	E
COHEN	ORI	
CORAM	TRISTAN	E.
CORDERY	VALERIE	MARINA
DE PAULA	AUREO	
DESLANDES	HERVE	
DORMAN	JENNIFER	CARRIER
DORMAN, JR	ROBERT	EDWARD
Duggal	Sanjeev	Kumar
EICHAR	DALE	ALAN

Last name	First name	Middle name/initials
EISER	ROBERT	ZENO
EMERSON	GIBRAN	EMANUEL
ERDKOENIG	ANGELIKA	C.
FERGUSON	LLOYD	W.
FERRANDON	SEBASTIEN	MARCEL
FERRARO	JOSEPH	MICHAEL
FINEBERG	DANIEL	DAVID
FINEBERG	DEBORAH	GAIL
FINEBERG	SIMON	
FRUEHWIRTH	DANIELA	MARIA
GALOUZEAU DE VILLEPIN	BRUNE	MARY BENOIT
GEEBELS	ANNELIES	
GERARD	INGRID	MARY
GILSON	ANOUK	MONIQUE JEAN
GODBOUT	SOPHIE	
GOLD	ADAM	JOSHUA
Good	Eric	Leonard
GRAUMAN NEANDER	JAN	ANDRE
GREENWOLD	LYNN	
GREENWOLD	STEPHEN	MICHAEL
GUINARD	CLAUDIA	IRENE ELFRIEDE
GUNTHARDT	ANJA	MARGARET
GURNEY	ELISABETH	A
Harrington	Judith	
Harrington	Norman	
HARRIS	ALAN	PAUL
HELY–HUTCHINSON	LUCINDA	CATHERINE
HENDRICKS	IMOGEN	
HOIZUMI	MASUMI	
HOIZUMI	YASUHIRO	
HOWLETT	RACHEL	ANNE RUTH
IMANISHI	RIKU	
IRELAND	PAMELA	LYNN
JANOSHALMI	TAMAS	
JARISLOWSKY	MARIKA	ANN
JOLLY	AARON	FRANCIS
JONES	EDMUND	
JOO	CHAN	GYU
JUAN	HUANG	YANG
JUN	MI	YOUNG
JUNGNELIUS	ANNETTE	G.
Kang	Byoungyup	
KANG	YANG	IM
KAO	GEOFFREY	EDWARD
KENNEDY	DOUGLAS	J
KENNEDY	JACQUELYN	AIRIKA
KENNEDY	JANE	S
KIM	SOOK	HEE
Kitamura	Atsushi	
KNELL	BETTINA	GERTRUDE
Knoop	Leticia	
Koshiro	Seiko	
KUBO	ATSUNORI	
KUDO	YUKO	
KUHN	ALEJANDRO	
KWON	WON	SHIK
LANDRY	ANNA	G
LAWRENCE	RHONDA	LYNN
LAY	PHILLI[P	F
LEE	HWEE	ING
LEE	JOOYOUNG	
LEE	MI	SEON
LEE	ROBERT	
LEE	YIN–HSUAN	
LEIGH	MARIE	JOSEPHINE
LEMONDE	PATRICE	
LENDERS	CAROLE	A
LEO	PATRICK	M
LEWTON–BRAIN	PETER	
LIBMAN	DANIEL	ROSS
LIN	YENHUA	
LIN	YUANQING	
LIND–STEIN	STACIE	ALENA
LINTERN	GAVAN	T.

Last name	First name	Middle name/initials
LIVANOS	KALLI	ANGELIKI
LOMBARDI	BRUNA	
LOW	TIFFANY	YOKE YING
LOWY	SARA	
Lu	Jie	
LUTSCH	NICK NIKOLAUS	
MACGREGOR	ROSLYN	ANN
MADSEN	ANNETTE	GLEERUP
MAJIC	CHARLES	ALEXANDER
MALONEY	JANET	
MALONEY	JOSEPH	
MARTIN	CYNTHIA	KAY TELFER SMOLLETT
MARTIN	MARGARET	
MCCABE	WENDY	ANN
MCCLUNG	CORY	
MCGARVEY	KATHLEEN	ANN
MCGRADY	MATTHEW	P.
Medri	Dante	
MEROZ	CAROLINE	L
MICHNIEWICZ	DANIEL	ADAM
Miseur	Daniel	
MIYAMOTO	MITSUKO	
MIYAMOTO	YUTAKA	
MOORE	MARIA	KATHERINE
NAKAMURA	HITOMI	
NAKAMURA	NORIKO	
NAKATANI	AKIKO	
NAKATANI	NOBUYA	
NAKAYAMA	SANAE	
NESSETH	WENDY	
NIU	HUI	L
OBOUDIYAT	KIA	
OMER	IDO	
OSBORNE	ALFRED	ERNEST
PAPPAS	BESS	VASILIKI
PARK	JOUNG	CHUL
PATURI	SUDHARANI	
PEAT	ROBERT	D
PERDEW	INGRID	
PETERSEN	LEIF	
PETERSEN	SHERRY	
PETKOV	PETKO	ILIEV
PETTY	GEORGE	
PIASENTE	MARIA	TERESA
PICATOSTE	FERNANDO	D
PICHLER–BELLERI	KARIN	
PIERCE	CHRISTINE	MARIE
PINN	NAOMI	
Pollack	Gavin	
POLLARD	NAHANNI	RUSSELL
POURREYRON	PAMELA	MEISTER
PRAWIROATMODJO	SISWANTO	
PRECHT	ELISABETH	
RASMUSSEN	HELLE	
RATHBONE	ERIN	NICOLE
RICCELLI	CARLOS	A
RIVIERE–BARBIER	ANAELLE	APRIL
ROELLINGHOFF	GERRIT	LEON
SANTORO	GABRIEL	
Sartori	Cristina	
SCHADE	ROSEMARIE	
SCHNEIDER	BENJAMIN	FERDINAND ERIC
SCHUCH	ELKE	BERTA
SEIDITA	GIUSEPPE	ANTONIO
SHAKKOUR	MAYADA	
SHEN	ZHILING	
SHINOTSUKA	CHIAKI	
SHINOTSUKA	SHINICHI	
SIDDONS	CONNELL	HUGH
SIDUU SIDHU	RAJPAL	S
SIMONSEN	SVEN	E
SMITS VAN WAESBERGHE	PATRICK	W.
SOARES	DAVID	JOSEPH
SOLOMONS	SUSAN	JOAN

Last name	First name	Middle name/initials
SONIER	ALAIN	CHRISTIAN LOUIS
SPROULE	JULIAN	G
STAEBLEIN	MARKUS	
STAEBLEIN	TANJA	
STANFORD	ROYDEN	JOSEPH
STEVENSON	SCOT	WINSTON
TAKAHASHI	HIROKO	
TANABE	SAYURI	
TESTINO	AMBER	OLSON
THERIAULT	WILMON	
TIN	LANCELOT	KWOK–LEUNG
TJARKS	WERNER	
TOOTIKIAN	ARMEN	JOSEPH
TOOTIKIAN	HAIG	HAGOP
TREASURYWALA	KATAYUN	A.
TUNG	KENNETH	
Ujike	Takandri Takanori	
URANO	SHINYA	
VAN BEERS	NATALIE	JOSEPHINE PETRA
VAN DER KAMP	CHRISTINA	M
Van Der Zwan	Natasca	A
VAN TONDER	GAVIN	J.
VANDERBERG	IAN	IVAN DENZLER
VEGA	VANESA	ELIZABETH
VICAT–BLANC	JEROME	
VOELMAN	EGBERT	
VOLL	TOIVO	
VON BONIN	KATINKA	
VON GUIONNEAU	CURT	ANTHONY
WALKER	TIMOTHY	
WALLRAFF	CHRISTOPHER	WILLIAM
WANG	NIANYONG	
WEED–KRUPA	KAREN	JACK
WILSON	ERIC	B.
WILSON	LESLIE	C.
WISEMAN	ZAVIE	P
WOELLHAF	NICOLA	
WOOD	DOROTHY	LOUISE BICKERSTETH
WORSNOP	PAUL	DAVID
WU	JIANTAO	
WUNDERWALD	SILKE	S
YEN	DAVID	
YONG	STEVEN	YEW CHOH
ZHANG	SHUCHUN	
ZHOU	WEI	W
ZHOU	XIAOJIE	

Dated: April 26, 2021.

Godofredo F. Burgos-rodriguez,

Manager Classification Team 82413, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2021–08977 Filed 4–28–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments must be received on or before June 1, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. Title: Railroad Retirement Tax Act (Form CT–1 and CT–1X).

OMB Control Number: 1545–0001.

Type of Review: Revision of a currently approved collection.

Description: Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA) taxes. Form CT–1 is used for this purpose. The IRS uses the information to ensure that the employer has paid the correct tax. Form CT–1X is used to correct previously filed Forms CT–1. We have significantly revised the 2020 Form CT–1 to allow for

the reporting of new employment tax credits and the deferral of deposit and payment of certain taxes from the following provisions.

• *Public Law 116–127:* Section 7001, Payroll credit for required paid sick leave; Section 7003, Payroll credit for required family leave; and Section 7005, Wages paid by reason of the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act not considered compensation under section 3221(a)

• *Public Law 116–136:* Section 2301 Employee Retention Credit; and Section 2302, Delay of payment for employer payroll taxes.

Form Number: IRS Form CT–1 and IRS Form CT–1 X.

Affected Public: Businesses or other for-profit organizations; not-for-profit institutions; and State, Local, or Tribal governments.

Estimated Number of Respondents: 1,900 for CT–1; 500 for CT–1X.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 2,400.

Estimated Time per Response: 18 hours, 56 minutes for CT–1; 31hours, 14 minutes for CT–1X.

Estimated Total Annual Burden Hours: 51,055 hours.

2. Title: Claim for Refund and Request for Abatement.

OMB Control Number: 1545–0024.

Type of Review: Extension of a currently approved collection.

Description: Internal Revenue Code section 6402, 6404, and sections 301.6402–2, 301.6404–1, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors or certain actions by the IRS. Form 843 is used by taxpayers to claim these refunds, credits, or abatements.

Form Number: IRS Form 843.

Affected Public: Businesses or other for-profit organizations; individuals or households, not-for-profit institutions; and State, Local or Tribal governments.

Estimated Number of Respondents: 550,500.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 550,500.

Estimated Time per Response: 1 hour, 35 minutes.

Estimated Total Annual Burden Hours: 875,295 hours.

3. Title: Form 1040–SS—U.S. Self-Employment Tax Return; Form 1040–PR—Planilla Para La Declaracion De La Contribucion Federal Sobre El Trabajo Por Cuenta Propia, Anejo H–PR (1040 Sch H—PR)

OMB Control Number: 1545–0090.

Type of Review: Extension of a currently approved collection.

Description: Form 1040–PR is used by self-employed individuals to figure and report self-employment tax under IRC chapter 2 of Subtitle A, and provide credit to the taxpayer's social security account. Anejo H–PR is used to compute household employment taxes and the Form 1040–PR burden calculation includes this burden of 2,400 responses with 5,376 hours. Form 1040–SS is used by self-employed individuals to figure and report self-employment tax under IRC chapter 2 of Subtitle A, and provide credit to the taxpayer's social security account. Both of these forms are also used by bona-fide residents of Puerto Rico to claim the additional child tax credit.

Form Number: IRS Form 1040–PR, IRS Form 1040–SS, IRS Form 1040 (Sch H) PR.

Affected Public: Individuals or households; and Businesses or other for-profit organizations.

Estimated Number of Respondents: 202,831.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 202,831.

Estimated Time per Response: 2.51 hours to 12.23 hours.

Estimated Total Annual Burden Hours: 2,436,178 hours.

4. Title: U.S. Information Return-Trust Accumulation of Charitable Amounts.

OMB Control Number: 1545–0094.

Type of Review: Extension of a currently approved collection.

Description: Form 1041–A is used to report the information required in Internal Revenue Code section 6034 concerning accumulation and distribution of charitable amounts. The data is used to verify the amounts for which a charitable deduction was allowed are used for charitable purposes.

Form Number: IRS Form 1041–A.

Affected Public: Businesses or other for-profit organizations; and Individuals or Households.

Estimated Number of Respondents: 6,700.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 6,700.

Estimated Time per Response: 36 hours, 40 minutes.

Estimated Total Annual Burden Hours: 245,622.

5. Title: Sales of Business Property.

OMB Control Number: 1545–0184.

Type of Review: Extension of a currently approved collection.

Description: Form 4797 is used by taxpayers to report sales, exchanges, or involuntary conversions of assets used in a trade or business. It is also used to compute ordinary income from recapture and the recapture of prior year losses under section 1231 of the Internal Revenue Code.

Form Number: IRS Form 4797.

Affected Public: Businesses or other for-profit organizations; Individuals or Households.

Estimated Number of Respondents: 325,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 325,000.

Estimated Time per Response: 51 hours, 7 minutes.

Estimated Total Annual Burden Hours: 16,614,000.

6. Title: Request for Change in Plan/Trust Year (Form 5308).

OMB Control Number: 1545–0201.

Type of Review: Extension of a currently approved collection.

Description: Form 5308 is used to request permission to change the plan or trust year for a pension benefit plan. The information submitted is used in determining whether IRS should grant permission for the change.

Form Number: IRS Form 5308.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 20.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 20.

Estimated Time per Response: 42 minutes.

Estimated Total Annual Burden Hours: 14.

7. Title: Monthly Tax Return for Wagers.

OMB Control Number: 1545–0235.

Type of Review: Extension of a currently approved collection.

Description: Form 730 is used to identify taxable wagers under Internal Revenue Code section 4401 and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.

Form Number: IRS Form 730.

Affected Public: Businesses or other for-profit organizations; Individuals or Households.

Estimated Number of Respondents: 51,084.

Frequency of Response: Monthly.

Estimated Total Number of Annual Responses: 51,084.

Estimated Time per Response: 8 hours, 11 minutes.

Estimated Total Annual Burden Hours: 418,378.

8. Title: Application for Determination of Employee Stock Ownership Plan.

OMB Control Number: 1545–0284.

Type of Review: Extension of a currently approved collection.

Description: Internal Revenue Code section 404(a) allows employers an income tax deduction for contributions to their qualified deferred compensation plans. Form 5309 is used to request an IRS determination letter about whether the plan is qualified under Code section 409 or 4975(e)(7).

Form Number: IRS Form 5309.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2,500.

Estimated Time per Response: 10 hours, 47 minutes.

Estimated Total Annual Burden Hours: 26,975.

9. Title: Credit for Increasing Research Activities.

OMB Control Number: 1545–0619.

Type of Review: Extension of a currently approved collection.

Description: Internal Revenue Code section 38 allows a credit against income tax (Determined under IRC section 41) for an increase in research activities in a trade or business. Form 6765 is used by businesses and individuals engaged in a trade or business to figure and report the credit. The data is used to verify that the credit claimed is correct.

Form Number: IRS Form 6765.

Affected Public: Businesses or other for-profit organizations; Individuals or Households.

Estimated Number of Respondents: 15,805.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 15,805.

Estimated Time per Response: 18 hours, 2 minutes.

Estimated Total Annual Burden Hours: 285,281.

10. Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes; Reporting and Recordkeeping Requirements.

OMB Control Number: 1545–0723.

Type of Review: Extension of a currently approved collection.

Description: The Internal Revenue Code impose excise taxes on the sale or use of certain articles. Code section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Code sections 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles. This regulation contains reporting and recordkeeping requirements that enable the IRS and taxpayers to verify that the proper amount of tax is reported or excluded.

Regulation Project Number: TD 8043.

Affected Public: Businesses or other for-profit organizations, Not-for-profit institutions.

Estimated Number of Respondents: 1,500,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 1,500,000.

Estimated Time per Response: 19 minutes.

Estimated Total Annual Burden Hours: 475,000.

11. Title: Employer/Payer Appointment of Agent (Form 2678).

OMB Control Number: 1545–0748.

Type of Review: Extension of a currently approved collection.

Description: Internal Revenue Code section 3504 authorizes a fiduciary, agent, or other person to perform acts of an employer for purposes of employment taxes. Form 2678 is used to empower an agent with the responsibility and liability of collecting and paying the employment taxes including backup withholding and filing the appropriate tax return.

Form Number: IRS Form 2678.

Affected Public: Businesses or other for-profit organizations; Not-for-profit institutions.

Estimated Number of Respondents: 6,130,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 6,130,000.

Estimated Time per Response: 2 hours, 14 minutes.

Estimated Total Annual Burden Hours: 13,731,200.

12. Title: Product Liability Losses and Accumulations for Product Liability Losses.

OMB Control Number: 1545–0863.

Type of Review: Extension of a currently approved collection.

Description: T.D. 8096 provides final regulations relating to product liability losses and accumulations for the payment of reasonable anticipated product liability losses. Changes to the applicable tax law were made by the Revenue Act of 1978. Generally, a taxpayer who sustains a product liability loss must carry the loss back 10 years. However, a taxpayer may elect to have such loss treated as a regular net operating loss under section 172. If desired, such election is made by attaching a statement to the tax return. This statement will enable the IRS to monitor compliance with the statutory requirements.

Regulation Project Number: TD 8096.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 5,000.

Estimated Time per Response: 0.5 hour.

Estimated Total Annual Burden Hours: 2,500.

13. Title: Acquisition or Abandonment of Secured Property.

13. Title: Acquisition or Abandonment of Secured Property.

OMB Control Number: 1545–0877.

Type of Review: Extension of a currently approved collection.

Description: Form 1099–A is used by persons who lend money in connection with a trade or business, and who acquire an interest in the property that is security for the loan or who have reason to know that the property has been abandoned, to report the acquisition or abandonment.

Form Number: IRS Form 1099–A.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 466,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 466,000.

Estimated Time per Response: 9 minutes.

Estimated Total Annual Burden Hours: 74,560.

14. Title: Mortgage Credit Certificates (MCCs).

OMB Control Number: 1545–0922.

Type of Review: Extension of a currently approved collection.

Description: Mortgage Credit Certificates provide qualified holders of the certificates with a credit against income tax liability. In general, an Issuer elects to establish a mortgage credit certificate program in lieu of issuing qualified mortgage revenue bonds. Section 25 of the Code permits states and political subdivisions to elect to issue Mortgage Credit Certificates in lieu of qualified mortgage revenue bonds. Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to provide the IRS with information on the issuance of mortgage credit certificates (MCCs) authorized under Internal Revenue Code section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Form Number: IRS Form 8329 and IRS Form 8330.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 10,000 for Form 8329, 2,000 for Form 8330.

Frequency of Response: Annually for Form 8329, Quarterly for Form 8330.

Estimated Total Number of Annual Responses: 10,000 for Form 8329, 2,000 for Form 8330.

Estimated Time per Response: 5 hours, 53 minutes for Form 8329; 7 hours, 28 minutes for Form 8330.

Estimated Total Annual Burden Hours: 73,720.

15. Title: Low-Income Housing Credit Allocation and Certification.

OMB Control Number: 1545–0988.

Type of Review: Extension of a currently approved collection.

Description: Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 can be used to obtain a housing credit allocation from the housing credit agency. A separate Form 8609 must be issued for each building in a multiple building project. Form 8609 is also used to certify certain information. Form 8609–A is filed by a building owner to report compliance with the low-income housing provisions and calculate the low-income housing credit. Form 8609–A must be filed by the building owner for each year of the 15-year compliance period. File one Form 8609–A for the allocation(s) for the acquisition of an existing building and a separate Form 8609–A for the allocation(s) for rehabilitation expenditures.

Form Number: IRS Form 8609, IRS Form 8609–A.

Affected Public: Businesses or other for-profit organizations; Not-for-profit institutions.

Estimated Number of Respondents: 30,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 30,000.

Estimated Time per Response: 18 hours, 16 minutes.

Estimated Total Annual Burden Hours: 414,915.

16. Title: Passive Activity Loss Limitations.

OMB Control Number: 1545–1008.

Type of Review: Extension of a currently approved collection.

Description: Internal Revenue Code section 469 limits the passive activity losses that a taxpayer may deduct. The passive activity losses from passive activities, to the extent that they exceed income from passive activities, cannot be deducted against nonpassive income. Form 8582 is used to figure the passive activity loss allowed and the actual loss to be reported on the tax returns.

Form Number: IRS Form 8582.

Affected Public: Individuals or Households; Estates and Trusts.

Estimated Number of Respondents: 250,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 250,000.

Estimated Time per Response: 3 hours, 30 minutes.

Estimated Total Annual Burden Hours: 875,000.

17. Title: Salary Reduction Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

OMB Control Number: 1545–1012.

Type of Review: Extension of a currently approved collection.

Description: Form 5305A–SEP is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS, but is to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions made to the SEP.

Form Number: IRS Form 5305A–SEP.

Affected Public: Businesses or other for-profit organizations; Individuals or Households.

Estimated Number of Respondents: 100,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 100,000.

Estimated Time per Response: 9 hours, 43 minutes.

Estimated Total Annual Burden Hours: 972,000.

18. Title: Adjustments to Basis of Stock and Indebtedness to Shareholders of S Corporations and Treatment of Distributions by S Corporations to Shareholders.

OMB Control Number: 1545–1139.

Type of Review: Extension of a currently approved collection.

Description: TD 9428 and TD 9300 contains final regulations relating to the passthrough of items of an S corporation to its shareholders, the adjustments to the basis of stock of the shareholders, and the treatment of distributions by an S corporation. Changes to the applicable law were made by the Subchapter S Revision Act of 1982, the Tax Reform Act of 1984, the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, and the Small Business Job Protection Act of 1996. These regulations provide the public with guidance needed to comply with the applicable law and will affect S corporations and their shareholders.

Regulation Project Number: TD 9428, TD 9300.

Affected Public: Businesses or other for-profit organizations; Individuals or Households.

Estimated Number of Respondents: 2,250.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2,250.

Estimated Time per Response: 12 minutes.

Estimated Total Annual Burden Hours: 450.

19. Title: Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition.

OMB Control Number: 1545–1204.

Type of Review: Extension of a currently approved collection.

Description: Under Internal Revenue Code section 42(m)(1)(B)(iii), state housing credit agencies are required to notify the IRS of noncompliance with the low-income housing tax credit provisions. A separate form must be filed for each building that is not in compliance. The IRS uses this information to determine whether the low-income housing credit is being correctly claimed and whether there is any credit recapture.

Form Number: IRS Form 8823.

Affected Public: State and Local governments.

Estimated Number of Respondents: 20,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 20,000.

Estimated Time per Response: 15.16 hours.

Estimated Total Annual Burden Hours: 303,200.

20. Title: Disclosure of Tax Return Information for Purposes of Quality or Peer Reviews, Due to Incapacity or Death of Tax Return Preparer.

OMB Control Number: 1545–1209.

Type of Review: Extension of a currently approved collection.

Description: These regulations govern the circumstances under which tax return information may be disclosed for purposes of conducting quality or peer reviews, and disclosures that are necessary because of the tax return preparer's death or incapacity.

Regulation Project Number: TD 8383.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 250,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 250,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 250,000.

21. Title: Treaty-Based Return Position Disclosure.

OMB Control Number: 1545–1354.

Type of Review: Extension of a currently approved collection.

Description: Form 8833 is used by taxpayers that are required by section 6114 to disclose a treaty-based return position to disclose that position. The form may also be used to make the treaty-based position disclosure required by regulations section 301.7701(b)–7(b) for ''dual resident'' taxpayers.

Form Number: IRS Form 8833.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 4,100.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 4,100.

Estimated Time per Response: 6 hours 16 minutes.

Estimated Total Annual Burden Hours: 25,740.

22. Title: Information Reporting by Passport Applicants.

OMB Control Number: 1545–1359.

Type of Review: Extension of a currently approved collection.

Description: The final regulations in TD 9679 provide information reporting rules for certain passport applicants. These final regulations apply to certain individuals applying for passports (including renewals) and provide guidance to such individuals about the information that must be included with their passport application.

Regulation Project Number: TD 9679.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 12,133,537.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 12,133,537.

Estimated Time per Response: 6 minutes.

Estimated Total Annual Burden Hours: 1,213,354.

23. Title: Methods to Determine Taxable Income in connection with a Cost Sharing Arrangement—IRC section 482.

OMB Control Number: 1545–1364.

Type of Review: Extension of a currently approved collection.

Description: TD 9568 contains final regulations regarding methods to determine taxable income in connection with a cost sharing arrangement under section 482 of the Internal Revenue Code (Code). The final regulations address issues that have arisen in administering the current cost sharing regulations. The final regulations affect domestic and foreign entities that enter into cost sharing arrangements described in the final regulations.

Regulation Project Number: TD 9568.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 500.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 500.

Estimated Time per Response: 18 hours, 42 minutes.

Estimated Total Annual Burden Hours: 9,350.

24. Title: Carryover of Passive Activity Losses and Credits and At-Risk losses to Bankruptcy Estates of Individuals.

OMB Control Number: 1545–1375.

Type of Review: Extension of a currently approved collection.

Description: TD 8537 contains final regulations relate to the application of carryover of passive activity losses and credits and at-risk losses to the bankruptcy estates of individuals. The final regulations affect individual taxpayers who file bankruptcy petitions under chapter 7 or chapter 11 of title 11 of the United States Code and have passive activity losses and credits under section 469 or losses under section 465.

Regulation Project Number: TD 8537.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 500.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 500.

Estimated Time per Response: 12 minutes.

Estimated Total Annual Burden Hours: 100.

25. Title: Diesel Fuel and Kerosene Excise Tax; Dye Injection.

OMB Control Number: 1545–1418.

Type of Review: Extension of a currently approved collection.

Description: In order for diesel fuel and kerosene that is used in a nontaxable use to be exempt from tax under section 4082(a), it must be indelibly dyed by use of a mechanical dye injection system that satisfies the requirements in the regulations. These regulations affect certain enterers, refiners, terminal operators, and throughputters.

Regulation Project Number: TD 9199.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 1.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 1.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 1.

26. Title: Continuation Coverage Requirements Application to Group Health Plans.

OMB Control Number: 1545–1581.

Type of Review: Extension of a currently approved collection.

Description: The regulations require group health plans to provide notices to individuals who are entitled to elect COBRA (The Consolidated Omnibus Budget Reconciliation Act of 1985) continuation coverage of their election rights. Individuals who wish to obtain the benefits provided under the statute are required to provide plans notices in the cases of divorce from the covered employee, a dependent child's ceasing to be dependent under the terms of the plan, and disability. Most plans will require that elections of COBRA continuation coverage be made in writing. In cases where qualified beneficiaries are short by an insignificant amount in a payment made to the plan, the regulations require the plan to notify the qualified beneficiary if the plan does not wish to treat the tendered payment as full payment. If a health care provider contacts a plan to confirm coverage of a qualified beneficiary, the regulations require that the plan disclose the qualified beneficiary's complete rights to coverage.

Regulation Project Number: REG–209485–86 (TD 8812).

Affected Public: Businesses or other for-profit organizations; Individuals or Households; Not-for-profit institutions.

Estimated Number of Respondents: 12,079,600.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 12,079,600.

Estimated Time per Response: Varies from 30 seconds to 330 hours, depending on individual circumstances, with an estimated average of 14 minutes.

Estimated Total Annual Burden Hours: 404,640.

27. Title: Form W–8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individual), Form W–8BEN–E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities), Form W–8ECI,Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States, Form W–8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting, Form W–8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting.

OMB Control Number: 1545–1621.

Type of Review: Extension of a currently approved collection.

Description: Form W–8BEN is used for certain types of income to establish that the person is a foreign person, is the beneficial owner of the income for which Form W–8BEN is being provided and, if applicable, to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Form W–8ECI is used to establish that the person is a foreign person and the beneficial owner of the income for which Form W–8ECI is being provided, and to claim that the income is effectively connected with the conduct of a trade or business within the United States. Form W–8EXP is used by a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, or foreign private foundation. The form is used by such persons to establish foreign status, to claim that the person is the beneficial owner of the income for which Form W–8EXP is given and, if applicable, to claim a reduced rate of, or exemption from, withholding. Form W–8IMY is provided to a withholding agent or payer by a foreign intermediary, foreign partnership, and certain U.S. branches to make representations regarding the status of beneficial owners or to transmit appropriate documentation to the withholding agent. Reg. § 1.1441–1(e)(4)(iv) provides that a withholding agent may establish a system for a beneficial owner to electronically furnish a Form W–8 or an acceptable substitute Form W–8. Withholding agents with systems that electronically collect Forms W–8 may voluntarily choose to participate in the IRS EW–8 MOU Program. The EW–8 MOU Program is a collaborative process between the withholding agents and IRS.

Form Number: W–8BEN, W–8BEN–E, W–8ECI, W–8EXP, and W–8IMY.

Affected Public: Businesses or other for-profit organizations; Individuals or Households; Not-for-profit institutions.

Estimated Number of Respondents: 3,390,640.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 3,390,640.

Estimated Time per Response: 7.18 hours to 26.45 hours.

Estimated Total Annual Burden Hours: 29,291,380.

28. Title: Limitations on Credit or Refund.

OMB Control Number: 1545–1649.

Type of Review: Extension of a currently approved collection.

Description: Generally, under section 6511(a), a taxpayer must file a claim for credit or refund of tax within three years after the date of filing a tax return or within two years after the date of payment of the tax, whichever period expires later. Under section 6511(h), the statute of limitations on claims for credit or refund is suspended for any period of an individual taxpayer's life during which the taxpayer is unable to manage his or her financial affairs because of a medically determinable mental or physical impairment, if the impairment can be expected to result in death, or has lasted (or can be expected to last) for a continuous period of not less than 12 months.

Revenue Procedure: Revenue Procedure 99–21.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 48,200.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 48,200.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 24,100.

29. Title: American Jobs Creation Act (AJCA) Modifications to the Section 6112 Regulations.

OMB Control Number: 1545–1686.

Type of Review: Extension of a currently approved collection.

Description: TD 9352 contains final regulations under section 6112 of the Internal Revenue Code that provide the rules relating to the obligation of material advisors to prepare and maintain lists with respect to reportable transactions. These regulations affect material advisors responsible for keeping lists under section 6112.

Regulation Project and Form Numbers: TD 9352; Form 13976.

Affected Public: Businesses or other for-profit organizations; Individuals or Households; Not-for-profit institutions.

Estimated Number of Respondents: 500.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 500.

Estimated Time per Response: 100 hours.

Estimated Total Annual Burden Hours: 50,000.

30. Title: Amended Quarterly Federal Excise Tax Return.

OMB Control Number: 1545–1759.

Type of Review: Extension of a currently approved collection.

Description: Form 720X is used to make adjustments to liability reported on forms 720 you have filed for previous quarters. It can be filed by itself or it can be attached to any subsequent Form 720. Code section 6416(d) allows taxpayers to take a credit on a subsequent return rather than filing a refund claim. The creation of Form 720X is to provide a uniform standard for trust fund accounting.

Form Number: IRS Form 720–X.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 5,500.

Frequency of Response: Quarterly.

Estimated Total Number of Annual Responses: 22,000.

Estimated Time per Response: 6 hours, 56 minutes.

Estimated Total Annual Burden Hours: 152,460.

31. Title: Payments from Qualified Education Programs (Under Sections 529 and 530).

OMB Control Number: 1545–1760.

Type of Review: Extension of a currently approved collection.

Description: Form 1099–Q is used to report distributions from private and state qualified tuition programs as required under Internal Revenue Code sections 529 and 530. A Form 1099–Q is filed if you (a) are an officer or an employee, or the designee of an officer or employee, having control of a program established by a state or eligible educational institution; and (b) made a distribution from a qualified tuition program (QTP). A trustee of a Coverdell education savings account (ESA) must file Form 1099–Q to report distributions made from Coverdell ESAs. To lessen the burden for payers, Form 1099–Q was developed to report distributions from private and state qualified tuition programs. A copy of the Form 1099–Q must be furnished to the recipient.

Form Number: IRS Form 1099–Q.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 3,689,800.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 3,689,800.

Estimated Time per Response: 13 minutes.

Estimated Total Annual Burden Hours: 811,756.

32. Title: Electronic Deposit of Tax Refund of $1 Million or More.

OMB Control Number: 1545–1763.

Type of Review: Extension of a currently approved collection.

Description: IRS Form 8302 is used to request an electronic deposit of a tax refund of $1 million or more directly into an account at any U.S. bank or other financial institution that accepts electronic deposits.

Form Number: IRS Form 8302.

Affected Public: Businesses or other for-profit organizations; Individuals or Households.

Estimated Number of Respondents: 584.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2.96 hours.

Estimated Time per Response: 584.

Estimated Total Annual Burden Hours: 1,729.

33. Title: Optional election to make monthly 706(a) computations.

OMB Control Number: 1545–1768.

Type of Review: Extension of a currently approved collection.

Description: Revenue Procedure 2003–84 allows certain partnerships that invest in tax-exempt obligations to make an election that enables the partners to take into account monthly the inclusions required under sections 702 and 707(c) of the Code and provides rules for partnership income tax reporting under section 6031 for such partnerships. Rev. Proc. 2002–68 modified and superseded.

Revenue Procedure Number: Revenue Procedure 2003–84.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 1,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 500.

34. Title: Guidance under Sections 897, 1445, and 6109 to require use of Taxpayer Identifying Numbers on Submission under the Section 897 and 1445.

OMB Control Number: 1545–1797.

Type of Review: Extension of a currently approved collection.

Description: The collection of information relates to applications for withholding certificates under section 1.1445–3 to be filed with the IRS with respect to (1) dispositions of U.S. real property interests that have been used by foreign persons as a principle residence within the prior 5 years and excluded from gross income under section 121 and (2) dispositions of U.S. real property interests by foreign persons in deferred like kind exchanges that qualify for nonrecognition under section 1031.

Regulation Project Number: TD 9082; TD 9751.

Affected Public: Businesses or other for-profit organizations; Individual or Households.

Estimated Number of Respondents: 150.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 150.

Estimated Time per Response: 4 hours.

Estimated Total Annual Burden Hours: 600.

35. Title: Government Service Information.

OMB Control Number: 1545–1919.

Type of Review: Extension of a currently approved collection.

Description: The hiring process requires applicants to provide IRS with specific information to verify previous employment history. Form 12854, Government Service Information, requests information from applicants who were previously employed by the Federal Government. The information on the form is needed to assist in providing information for pay setting determinations of potential new employees.

Form Number: IRS Form 12854.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 24,813.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 24,813.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 6,203.

36. Title: Certificate of Partner-Level Items to Reduce Section 1446 Withholding.

OMB Control Number: 1545–1934.

Type of Review: Extension of a currently approved collection.

Description: Form 8804–C is used by a foreign partner that voluntary submit to the partnership if it chooses to provide a certification that could reduce or eliminate the partnership's withholding tax obligation under section 1446 (1446 tax) on the partner's allocable share of effectively connected income (ECTI) from the partnership. TD 9394 contains final regulations regarding when a partnership may consider certain deductions and losses of a foreign partner to reduce or eliminate the partnership's obligation to pay withholding tax under section 1446 on effectively connected taxable income allocable under section 704 to such partner.

Form Number: IRS Form 8804–C; TD 9394.

Affected Public: Businesses or other for-profit organizations; Individuals or Households; Not-for-Profit Organizations.

Estimated Number of Respondents: 1,001.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 1,001.

Estimated Time per Response: 18 hours, 42 minutes.

Estimated Total Annual Burden Hours: 18,701.

37. Title: Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests.

OMB Control Number: 1545–2099.

Type of Review: Extension of a currently approved collection.

Description: Form 8924, Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests, is required by Section 403 of the Tax Relief and Health Care Act of 2006 which imposes an excise tax on certain transfers of qualifying mineral or geothermal interests.

Form Number: IRS Form 8924.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 20.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 20.

Estimated Time per Response: 5 hours, 33 minutes.

Estimated Total Annual Burden Hours: 111.

38. Title: Form 3921, Exercise of an Incentive Stock Option Under Section 422(b), Information Reporting Requirements Under Internal Revenue Service Code Section 6039, and Form 3922, Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c).

OMB Control Number: 1545–2129.

Type of Review: Extension of a currently approved collection.

Description: Form 3921 is a copy of the information return filed with the Internal Revenue Service by the corporation which transferred shares of stock to a recipient. Form 3922 is used by the corporation to record a transfer of the legal title of a share of stock acquired by the employee where the stock was acquired pursuant to the exercise of an option described in Internal Revenue Code section 423(c). These forms are required to be filed for stock transfers occurring after 2008. TD 9470 contains the final regulations relating to the return and information statement requirements under Internal Revenue Code section 6039. These regulations reflect changes to section 6039 made by section 403 of the Tax Relief and Health Care Act of 2006. These regulations affect corporations that issue statutory stock options and provide guidance to assist corporations in complying with the return and information statement requirements under section 6039.

Form Number: IRS Form 3921, IRS Form 3922, TD 9470.

Affected Public: Businesses or other for-profit organizations; Individuals or Households.

Estimated Number of Respondents: 51,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 51,000.

Estimated Time per Response: 29 minutes.

Estimated Total Annual Burden Hours: 25,205.

39. Title: Payout Requirements for Type III Supporting Organizations that are not Functionally Integrated.

OMB Control Number: 1545–2157.

Type of Review: Extension of a currently approved collection.

Description: TD 9605 contains final regulations regarding the requirements to qualify as a Type III supporting organization that is operated in connection with one or more supported organizations. The regulations reflect changes to the law made by the Pension Protection Act of 2006. The regulations will affect Type III supporting organizations and their supported organizations.

Form Number: TD 9605 (REG–155929–06).

Affected Public: Not-for-profit institutions; State, Local, or Tribal Governments.

Estimated Number of Respondents: 11,994.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 11,994.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 23,988.

40. Title: Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes.

OMB Control Number: 1545–2254.

Type of Review: Extension of a currently approved collection.

Description: Third parties who directly pay another's payrolls can be held liable for the full amount of taxes required to be withheld but not paid to the Government (subject to the 25% limitation). IRC 3505 deals with persons who supply funds to an employer for the purpose of paying wages. The notification that a third party is paying or supplying wages will usually be made by filing of the Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes. The Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes is to be submitted and associated with each employer and for every calendar quarter for which a liability under section 3505 is incurred.

Form Number: IRS Form 4219.

Affected Public: Businesses and other for-profit organizations, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Government.

Estimated Number of Respondents: 1,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 1,000.

Estimated Time per Response: 12 hours, 50 minutes.

Estimated Total Annual Burden Hours: 12,833.

41. Title: ABLE Account Contribution Information and Distributions from ABLE Accounts.

OMB Control Number: 1545–2262.

Type of Review: Extension of a currently approved collection.

Description: Public Law 113–295, ABLE Act of 2014, granted States, agencies and/or their instrumentalities the authority to allow for the establishment of special accounts that allow individuals and families to set aside money for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life, without impacting eligibility for other social service financial assistance programs such as Medicaid. Form 5498–QA is used to report to the beneficiaries the contributions, rollovers, and program to program transfers associated with these accounts. Form 1099–QA allows these individuals and families to draw from the special account.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 20,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 20,000.

Estimated Time per Response: 10 minutes to 11 minutes.

Estimated Total Annual Burden Hours: 3,600.

42. Title: Information Regarding Beneficiaries Acquiring Property from a Decedent.

OMB Control Number: 1545–2264.

Type of Review: Extension of a currently approved collection.

Description: The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 requires executors of an estate and other persons who are required to file a Form 706, Form 706–NA, or Form 706–A, to report to the Internal Revenue Service (IRS) and to each beneficiary receiving property from an estate the estate tax value of the property, if the return is filed after July 31, 2015. Form 8971 is used to report to the IRS and a Schedule A will be sent to each beneficiary and a copy of each Schedule A will be attached to the Form 8971. Some property received by a beneficiary may have a consistency requirement, meaning that the beneficiary must use the value reported on the Schedule A as the beneficiary's initial basis of the property. A beneficiary is an individual, trust, or other estate who has acquired (or is expected to acquire) property from the estate. If the executor is also a beneficiary who has acquired (or is expected to acquire) property from the estate, the executor is a beneficiary for purposes of the Form 8971 and the attached Schedule A.

Form Number: IRS Form 8971.

Affected Public: Businesses or other for-profit organizations; Individuals or Households; Not-for-profit institutions.

Estimated Number of Respondents: 10,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 10,000.

Estimated Time per Response: 20 hours.

Estimated Total Annual Burden Hours: 200,000.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: April 26, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021–08993 Filed 4–28–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Capital Magnet Fund Application and Performance Report

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments must be received on or before June 1, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Community Development Financial Institutions Fund (CDFIF)

Title: Capital Magnet Fund Application and Performance Report.

OMB Control Number: 1559–0036.

Type of Review: Revision of a currently approved collection.

Description: The Capital Magnet Fund was established through the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289) or HERA, as a competitive grant program administered by the CDFI Fund. Through CMF, the CDFI Fund provides financial assistance grants to Certified Community Development Financial Institutions (CDFIs) and qualified Nonprofit Organizations with the development or management of Affordable Housing, as defined in 12 CFR part 1807, as one of their principal purposes. Capitalized terms not defined in this Notice (other than titles) have the meaning set forth in the CMF Interim Rule (12 CFR part 1807). CMF awards must be used to attract private financing for and increase investment in: (i) The Development, Preservation, Rehabilitation, and Purchase of Affordable Housing for primarily Extremely Low-, Very Low-, and Low-Income Families; and (ii) Economic Development Activities which, in conjunction with Affordable Housing Activities will implement a Concerted Strategy to stabilize or revitalize a Low-Income Area or an Underserved Rural Area.

CMF Award Recipients are selected through a competitive process involving a careful review of their Application for program funding. The Application requires the submission of quantitative data and narrative responses for three parts: (1) Business and Leveraging Strategy, (2) Community Impact, and (3) Organizational Capacity. The Award selection process is defined in the Notice of Funding Availability (NOFA) for each funding round.

CMF Award Recipients enter into Assistance Agreements with the CDFI Fund that set forth required terms and conditions of the Award, including reporting and data collection requirements. The Assistance Agreement requires the submission of an annual CMF Performance Report. The information collected in the CMF Performance Report is reviewed to ensure the Recipient's compliance with its Performance Goals and contractual obligations, as well as the overall performance of the program.

Form: Capital Magnet Fund Application; Capital Magnet Fund Annual Report.

Affected Public: Businesses or other for-profit organizations; and State, Local, and Tribal governments.

Estimated Number of Respondents: 137 (Application); 291 (CMF Performance Report).

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 137 (Application); 291 (CMF Performance Report).

Estimated Time per Response: 120 hours (Application); 20 hours (CMF Performance Report).

Estimated Total Annual Burden Hours: 16,440 hours (Application); 5,820 hours (CMF Performance Report).

Authority: 44 U.S.C. 3501 *et seq.*

Dated: April 23, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021–08928 Filed 4–28–21; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Renewal of the Treasury Borrowing Advisory Committee, Formerly Known as the Treasury Borrowing Advisory Committee of the Securities Industry and Financial Markets Association

ACTION: Notice of renewal.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, with the concurrence of the General Services Administration, the Secretary of the Treasury is renewing the Treasury Borrowing Advisory Committee (the ''Committee'').

FOR FURTHER INFORMATION CONTACT: Fred Pietrangeli, Director, Office of Debt Management (202) 622–1876.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to provide informed advice as representatives of the financial community to the Secretary of the Treasury and Treasury staff, upon the Secretary of the Treasury's request, in carrying out Treasury responsibilities for Federal financing and public debt management. The Committee meets to consider and provide advice on special items pertaining to immediate Treasury funding requirements and longer term approaches to manage the national debt in a cost-effective manner. The Committee usually meets immediately before Treasury announces each quarter's funding operation, although special meetings also may be held. Membership consists of up to 20 representative or special government employee members who are appointed by Treasury. The members are senior-level officials who are employed by primary dealers, institutional investors, and other major participants in the government securities and financial markets as well as recognized experts in the fields of economics and finance, financial market analysis, or financial institutions and markets.

The Treasury Department transmitted copies of the Committee's renewal charter to the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Banking, Housing and Urban Affairs, and the House Committee on Financial Services in Congress on or about April 20, 2021.

Dated: April 26, 2021.

Fred Pietrangeli,

Director of the Office of Debt Management.

[FR Doc. 2021–08967 Filed 4–28–21; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatric and Gerontology Advisory Committee; AMENDED, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that a meeting of the Geriatric and Gerontology Advisory Committee will be held on Tuesday, April 27, 2021 and Wednesday, April 28, 2021, from 12:00 p.m. to 4:00 p.m. (Eastern Daylight Time) on both days. This meeting will be virtual and open to the public.

The purpose of the Committee is to provide advice to the Secretary of VA and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology. The Committee assesses the capability of VA health care facilities and programs to meet the medical, psychological, and social needs of older Veterans, and evaluates VA programs designated as Geriatric Research, Education, and Clinical Centers.

Although no time will be allocated for receiving oral presentations from the public, members of the public may submit written statements for review by the Committee to: Marianne Shaughnessy, CRNP, Ph.D., Designated Federal Officer, Veterans Health Administration by email at *Marianne.Shaughnessy@va.gov.*

Comments will be accepted until close of business on April 15, 2021. In the communication, the writers must identify themselves and state the organization, association of person(s) they represent.

Any member of the public wishing to attend virtually or seeking additional information should email *Marianne.Shaughnessy@va.gov* or call 202–407–6798, no later than close of business on April 15, 2021 to provide their name, professional affiliation, email address and phone number. For any members of the public that wish to attend virtually, they may use the WebEx link for

April 27, 2021

https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=ma20c0aba509a49bec0ffc0fdabbe71d7, meeting number (access code): 199 056 7211, meeting password: sgQzubd?893 or

April 28, 2021

https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m5901df6b033683a7ade169c399cb083f, meeting number (access code): 199 832 3835, meeting password: Zuvd32Rjh@7, or to join by phone either day: 1–404–397–1596.

Dated: April 23, 2021.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–08895 Filed 4–28–21; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 86 Thursday,

No. 81 April 29, 2021

Part II

Federal Communications Commission

47 CFR Part 4

Disruptions to Communications; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[PS Docket No. 15–80; FCC 21–34; FRS 20221]

Disruptions to Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts final rules to provide direct, read-only access to Network Outage Reporting System (NORS) and Disaster Outage Reporting System (DIRS) filings to agencies of the 50 states, the District of Columbia, tribal nations, territories, and Federal Government that have official duties that make them directly responsible for emergency management and first responder support functions, including by: Allowing these agencies to share NORS and DIRS information with agency officials, first responders, and other individuals with a ''need to know'' who cannot directly access NORS and DIRS and yet play a vital role in preparing for, or responding to, events that threaten public safety; allowing participating agencies to publicly disclose aggregated and anonymized information derived from NORS or DIRS filings; conditioning a participating agency's direct access to NORS and DIRS filings on their agreement and ability to preserve the confidentiality of the filings and not disclose them absent a finding by the Commission allowing the disclosure; and establishing an application process that would grant eligible agencies access to NORS and DIRS after those agencies certify to certain requirements related to maintaining the confidentiality of the data and the security of the databases.

DATES: This rule is effective September 30, 2022.

FOR FURTHER INFORMATION CONTACT: For further information, contact Saswat Misra, Attorney-Advisor, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418–0944 or via email at *Saswat.Misra@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, FCC 21–34, adopted on March 17, 2021 and released on March 18, 2021. The document is available for download at *https://docs.fcc.gov/public/attachments/FCC-21-34A1.pdf.* To request this document in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

The Federal Communications Commission may delay this effective date by publishing a document in the **Federal Register**.

Paperwork Reduction Act:

The Second Report and Order requires service providers to make adjustments to their NORS reporting processes to accommodate the Commission's adjustments to its NORS web-based form pursuant to section 47 CFR 4.11. These adjustments and the new requirement that agencies file certification forms, pursuant to 47 CFR 4.2, to request access to NORS and DIRS reports, constitute a modified information collection. The information collection requirements contained in the rules that require OMB approval are subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The information collection will be submitted to OMB for review under 47 U.S.C. 3507(d), and will not take effect until it is approved by OMB.

Congressional Review Act:

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

Synopsis:

I. Introduction

1. Section 1 of the Communications Act of 1934, as amended (the Act), charges the Commission with ''promoting safety of life and property through the use of wire and radio communications.'' 47 U.S.C. 151. This statutory objective and statutory authorities cited below have supported the Commission's institution of outage reporting requirements, codified in part 4 of our rules, that require providers to report network outages that exceed specified magnitude and duration thresholds. The outage data that the Commission collects pursuant to part 4 provide critical situational awareness that enables the Commission to be an effective participant in emergency response and service restoration efforts, particularly in the early stages of communications disruption.

2. Currently, the Commission collects network outage information in the NORS and infrastructure status information in the DIRS. This information is sensitive for reasons concerning national security and commercial competitiveness, and the Commission thus treats it as presumptively confidential. The Commission makes this information available to the Department of Homeland Security's (DHS) National Cybersecurity and Communications Integration Center but does not share the information more broadly with other Federal, state, or local partners. However, in a 2016 Report and Order and Further Notice, the Commission found that state and Federal agencies would benefit from direct access to NORS data and that ''such a process would serve the public interest if implemented with appropriate and sufficient safeguards.'' 81 FR 45055, 45064 (July 12, 2016) (*2016 Report and Order and Further Notice*).

3. Today's Order bridges this gap and promotes better information sharing and awareness during times of emergency. It creates a framework to provide state, Federal, local, and Tribal partners with access to the critical NORS and DIRS information they need to ensure the public's safety while preserving the presumptive confidentiality of the information. Today's actions will ensure that these public safety officials can appropriately and effectively leverage the same reliable and timely network outage and infrastructure status information as the Commission when responding to emergencies.

II. Background

4. *Network Outage Reporting System or NORS.* In 2004, the Commission adopted rules that require outage reporting for communications providers, including wireline, wireless, paging, cable, satellite, VoIP, and Signaling System 7 service providers, to address ''the critical need for rapid, complete, and accurate information on service disruptions that could affect homeland security, public health or safety, and the economic well-being of our Nation, especially in view of the increasing importance of non-wireline communications in the Nation's communications networks and critical infrastructure.'' These rules currently do not extend to broadband networks. In 2016, the Commission sought comment on whether its part 4 rules should be updated to implement a proposed system for the mandatory reporting of broadband network outages and other disruptions, including those based on performance degradation. The proposals

in the *2016 Report and Order and Further Notice* remain pending.

5. Under these rules, certain service providers must submit outage reports to NORS for outages that exceed specified duration and magnitude thresholds. Service providers are required to submit a notification to NORS generally within two hours of determining that an outage is reportable to provide the Commission with timely preliminary information. The service provider must then either (i) provide an initial report within three calendar days, followed by a final report with complete information on the outage within 30 calendar days of the notification; or (ii) withdraw the notification and initial reports if further investigation indicates that the outage did not in fact meet the applicable reporting thresholds.

6. All three types of NORS filings—notifications, initial reports, and final reports—contain service disruption or outage information that, among other things, include: The reason the event is reportable, incident date/time and location details, state affected, number of potentially affected customers, and whether enhanced 911 (E911) was affected. The Commission analyzes NORS outage reports, in the short-term, to assess the magnitude of major outages and, in the long-term, to identify network reliability trends and determine whether the outages likely could have been prevented or mitigated had the service providers followed certain network reliability best practices. Information collected in NORS has contributed to several of the Commission's outage investigations and recommendations for improving network reliability.

7. NORS filings are presumed confidential and thus are withheld from routine public inspection. 47 CFR 0.457(d)(vi), 4.2; 80 FR 34321 (June 16, 2015) (*2015 Notice*). The Commission grants read-only access to outage report filings in NORS to the National Cybersecurity and Communications Integration Center at DHS, but does not directly grant access to other Federal agencies, state governments, or other entities. DHS, however, may share relevant information with other Federal agencies at its discretion. The Commission also publicly shares limited analyses of aggregated and anonymized data to address collaboratively industry-wide network reliability issues and improvements.

8. *Disaster Information Reporting System or DIRS.* In the wake of Hurricane Katrina, the Commission established DIRS as a means for service providers, including wireless, wireline cable service providers, and broadcasters, to voluntarily report to the Commission their communications infrastructure status and situational awareness information during times of crises. The Commission recently required a subset of service providers that receive Stage 2 funding from the Uniendo a Puerto Rico Fund or the Connect USVI Fund to report in DIRS when it is activated in the respective territories. DIRS, like NORS, is a web-based filing system. The Commission analyzes infrastructure status information submitted in DIRS to provide public reports on communications status during DIRS activation periods, as well as to help inform investigations about the reliability of post-disaster communications.

9. DIRS filings are also presumed confidential and disclosure of information derived from those filings is limited. The Commission grants direct access to the DIRS database to the National Cybersecurity and Communications Integration Center at DHS. The Commission also prepares and provides aggregated DIRS information, without company identifying information, to the National Cybersecurity and Communications Integration Center, which then distributes the information to a DHS-led group of Federal agencies tasked with coordinating disaster response efforts, including other units in DHS, during incidents. Agencies use the analyses for their situational awareness and for determining restoration priorities for communications infrastructure in affected areas. The Commission also provides aggregated data, without company-identifying information, to the public during disasters.

10. *Expanding Access to NORS and DIRS.* In a *2015 Notice,* the Commission proposed to grant state governments ''read-only access to those portions of the NORS database that pertain to communications outages in their respective states.'' The Commission also asked if this access should extend beyond states and include ''the District of Columbia, U.S. territories and possessions, and Tribal nations.'' The Commission proposed to condition access on a state or other agency's certification that it ''will keep the data confidential and that it has in place confidentiality protections at least equivalent to those set forth in the Federal Freedom of Information Act (FOIA).'' The Commission sought comment on other key implementation details, including how to ''ensure that the data is shared with officials most in need of the information while maintaining confidentiality and assurances that the information will be properly safeguarded.'' Similarly, the Commission sought comment on sharing NORS filings with Federal agencies besides the Department of Homeland Security pursuant to certain safeguards to protect presumptively confidential information.

11. In a *2016 Report and Order and Further Notice,* the Commission found that the record reflected broad agreement that these agencies would benefit from direct access to NORS data and that ''such a process would serve the public interest if implemented with appropriate and sufficient safeguards.'' The Commission determined that providing agencies with direct access to NORS filings would have public benefits but concluded that the process required more development for ''a careful consideration of the details that may determine the long-term success and effectiveness of the NORS program.''

12. Finding that the record was not fully developed and that the ''information sharing proposals raise[d] a number of complex issues that warrant[ed] further consideration,'' the Commission directed the Public Safety and Homeland Security Bureau (PSHSB) to further study and develop proposals regarding how NORS filings could be shared with agencies in real time, keeping in mind the information sharing privileges already granted to DHS. The Bureau subsequently conducted *ex parte* meetings to solicit additional viewpoints from industry, state public service commissions, trade associations, and other public safety stakeholders on the issue of granting state and Federal Government agencies direct access to NORS and DIRS filings.

13. In a February 2020 Second Further Notice, the Commission proposed to: (i) Grant direct, read-only access to the Commission's NORS and DIRS filings to agencies acting on behalf of the Federal Government, the 50 states, the District of Columbia, Tribal Nations, and the U.S. territories that demonstrate that they reasonably require access to prepare for, or respond to, an event that threatens public safety pursuant to their official duties (*i.e.,* that have a ''need to know''); (ii) authorize participating agencies to share copies of these filings, and any other confidential information derived from the filings, within or outside their agencies when a recipient also has a ''need to know,'' subject to certain safeguards, (iii) allow the recipient to further share the confidential NORS and DIRS information, directly or in summarized form, with additional recipients; and (iv) authorize any recipient to freely

share aggregated and anonymized information derived from the NORS and DIRS filings of at least four service providers. 85 FR 17818 (Mar. 31, 2020) (*Second Further Notice*).

14. The Commission proposed to safeguard the confidentiality of NORS and DIRS information by conditioning an agency's direct access on agreements to: (i) Treat NORS and DIRS filings as confidential and not disclose them, absent a finding by the Commission allowing the disclosure; and (ii) provide timely notification to the Commission when the agency receives a request from a third party to release NORS or DIRS filings or related records and when changes to statutes or rules would affect the agency's ability to adhere to the Commission's required confidentiality protections.

III. Second Report and Order

15. With this Order, we conclude that directly sharing NORS data with state and Federal agencies, subject to appropriate and sufficient safeguards, is in the public interest, and we extend this finding to include the sharing of DIRS data. We limit eligibility for direct access to our NORS and DIRS databases to ''need to know'' agencies acting on behalf of the Federal Government, the 50 states, the District of Columbia, Tribal Nations, and the U.S. territories. We also decide which agency responsibilities constitute a ''need to know'' and limit a participating agency's use of this information to those purposes. We allow these agencies to share confidential information derived from NORS and DIRS filings with non-credentialed individuals at the participating agency and at non-participating agencies on a strict ''need to know'' basis. We also allow recipients to release aggregated and anonymized NORS and DIRS information to the public and offer guidance on how that aggregation and anonymization should be performed.

16. To preserve the sensitive nature of NORS and DIRS filings, we adopt various safeguards, including limiting agency access to events occurring within an agency's jurisdiction; limiting access to five user accounts; requiring initial and annual security training; and requiring agencies to certify that they will take appropriate steps to safeguard the information contained in the filings, including notifying the Commission of unauthorized or improper disclosure. We require that participating agencies certify they will treat the information as confidential and not disclose the information absent a finding by the Commission that allows them to do so. We decline to allow non-participating agencies to further share the information with others. Under today's Order, we hold participating agencies responsible for any inappropriate disclosures of information by the non-participating agencies with which they share information, including by retaining the ability to terminate participating agencies' direct access to NORS and DIRS.

A. Sharing NORS Filings With State, Federal and Other Agencies

17. In the *Second Further Notice,* the Commission tentatively concluded ''that sharing NORS data with state and Federal agencies would serve the public interest—provided that appropriate and sufficient safeguards were implemented'' and sought to refresh the record to inform next steps. We now observe that industry, public safety organizations, and government agency commenters overwhelmingly support the Commission's proposal. We agree with commenters concluding that sharing NORS filings with other agencies will improve situational awareness during and after disasters, enable agencies to better assess the public's ability to access emergency communications, and assist with the coordination of emergency response efforts.

18. The Alliance for Telecommunications Industry Solutions (ATIS), however, maintains that while it ''supports efforts that aid in restoral of communications services and that help save lives,'' the sharing of NORS reports will ''generally not serve such purposes'' and NORS reports contain information that is not relevant to public safety. ATIS also argues that specific NORS fields should not be shared with agencies.

19. We reject ATIS's view as it is controverted by a number of commenters explaining, with detailed examples and based on knowledge of their own day to day responsibilities and operations, why the information contained in NORS filings is relevant to public safety by assisting in rapid communications service restoration and enhancing situational awareness. For example, the Montrose Emergency Telephone Service Authority (METSA) believes that if the Colorado Public Utilities Commission (COPUC) had been granted NORS access following a July 2019 fiber cut, ''the COPUC could have assisted with generalized information regarding areas which were truly impacted by the outage.'' In another example, Massachusetts Department of Telecommunications and Cable (MDTC) believes that direct access to NORS data would have provided it, local official and town residents, businesses, and government offices with ''timely, and therefore, actionable'' information about a recent wireline telephone service outage. MDTC also believes that access would have helped providers avoid the burden of being contacted multiple times by multiple parties.

B. Sharing DIRS Filings With State, Federal and Other Agencies

20. In the *Second Further Notice,* the Commission also proposed sharing DIRS filings with eligible state and Federal agencies and sought comment on the anticipated benefits of sharing DIRS filings. We adopt this proposal, finding that sharing DIRS filings will enhance public safety by improving participating agencies' situational awareness regarding infrastructure status and helping to inform their decisions on how to allocate resources. No commenters oppose the Commission's DIRS proposal. Rather, many agree that sharing DIRS filings will provide the benefits cited by the Commission in the *Second Further Notice,* including improving the effectiveness of response and recovery efforts during and after disasters and providing stakeholders with actionable status of communications outages. Communications Workers of America (CWA) states that ''information contained in the DIRS will be very helpful to understand the status of communications infrastructure in the impacted area and to set restoration priorities'' following major events such as wildfires and flooding. Other commenters underscore that access to both DIRS and NORS are vital to aid in situational awareness and emergency response initiatives because in the counties where DIRS has been activated, NORS reporting obligations are typically suspended for the duration of the DIRS activation.

21. Some commenters urge the Commission to make DIRS reporting mandatory. We decline to do so, as this issue is outside of the scope of this rulemaking. We agree with T-Mobile that such action would go ''beyond the question of sharing NORS and DIRS data and the manner in which the information should be shared.'' We also note that as our priority with this proceeding is ensuring that agencies begin to receive critical information about service outages to assist them in their service restoration initiatives, technical changes that may be necessitated by making DIRS reporting mandatory could delay such access.

C. Scope of Direct Access

22. *Eligibility for direct access.* In the *Second Further Notice,* the Commission proposed that direct access to NORS and DIRS be limited to agencies acting on behalf of the Federal Government, the 50 states, the District of Columbia, Tribal Nations, and the U.S. territories (including Puerto Rico and the U.S. Virgin Islands). We adopt this proposal.

23. The majority of commenters agree with this proposal, typically without significant comment. For example, T-Mobile remarks that limiting direct access in this way strikes an appropriate balance between disseminating NORS and DIRS information to those who most need it (*i.e.,* to save lives and property) and safeguarding the information's confidential nature. The California Public Utilities Commission believes that Tribal Nation eligibility is appropriate since Tribal Nation governments have oversight responsibility for public safety matters in their lands in the same manner as the other entities that the Commission has identified for direct access. We find that limiting direct access to NORS and DIRS filings is necessary to limit the risk for the over disclosure of sensitive and confidential information and to ensure administrative efficiency. While the Commission proposed to disallow direct access by local agencies, it proposed mechanisms to ensure that local agencies and related entities and individuals could indirectly access NORS and DIRS information on a case-by-case basis. We adopt some of these mechanisms today.

24. We reject Colorado Public Utilities Commission's view that Tribal Nation entities should be eligible for direct access only if they do not participate directly in a state 911 program or have their own 911 program. We find no reason to treat Tribal Nations differently than state agencies with respect to NORS or DIRS information sharing, and commenters have offered no new evidence to warrant such a departure. The Colorado Public Utilities Commission's approach appears to assume that NORS and DIRS information is only beneficial as it relates to improving 911 service. In contrast, we find that jurisdictions, including Tribal lands, can benefit from NORS and DIRS information for uses beyond improved 911 performance. This is corroborated, for example, by The Utility Reform Network's comments evidencing that agencies serving Tribal lands would have been better able to transmit emergency evacuation alerts during the 2019 California wildfire event had they had access to outage information. We find that Tribal Nations have a need for NORS and DIRS information regardless of their participation in a state's 911 program.

25. We reject the position of some commenters that at the state or local level, only state-based fusion centers (*i.e.,* state-owned and operated centers that serve as focal points in states and major urban areas for the receipt, analysis, gathering and sharing of threat-related information among state, local, Tribal, territorial, Federal and private sector partners) should be eligible to directly access NORS and DIRS data. These commenters argue that fusion centers are uniquely qualified for direct access because they work closely with state public safety agencies, are familiar with handling, analyzing, and summarizing sensitive information, and typically operate around the clock or because of their ''connection to the Federal Government.'' We are not persuaded.

26. Our experience over many years indicates that many other types of agencies have experience in coordinating with public safety agencies, handling sensitive information, and working tirelessly when disasters strike. No commenter has argued or provided evidence that fusion centers have specific expertise in interpreting NORS and DIRS outage information such that they alone should disseminate it. Fusion centers are not uniquely or solely qualified in this regard. We therefore find no reason to preclude otherwise eligible state agencies from accessing NORS and DIRS information, especially if such access would enhance public safety response and situation awareness. Contrary to views posited by the IACP, we find no administrative benefit in limiting accessibility to NORS and DIRS information to fusion centers. Instead, by exercising our administrative oversight for reviewing each application for access to NORS and DIRS, as detailed in today's Order, the Commission will be better able to ensure that NORS and DIRS information is used appropriately.

27. *Local Agencies.* We are not persuaded by commenters who argue that local agencies should be eligible for direct access to NORS and DIRS because they have the primary responsibility for responding to emergencies. We find the potential benefits of doing so are outweighed by the substantial risks and burdens of providing local agencies with direct access.

28. As noted by some commenters, local entity governments typically do not have the level of experience navigating the kinds of outage and infrastructure status information contained in NORS and DIRS filings that state agencies do. We agree with USTelecom that providing direct access to local entities would likely exponentially increase the number of participating entities, thus complicating administration and increasing opportunities for erroneous disclosure of confidential information. We believe such a large increase would render it difficult or impossible for the Commission to effectively administer the sharing framework. Instead, we believe that providing local entities indirect access, through participating agencies with direct access, will sufficiently support the public safety needs of localities while striking a fair balance between sharing NORS and DIRS information and minimizing the potential for unauthorized disclosure.

29. We similarly reject the views of some commenters that request that the Commission provide local entities with direct access purportedly so that state agencies are not burdened by, and delays are not created in, requiring them to provide this information to local entities themselves. Today's framework does not require, but only allows, these agencies to share NORS and DIRS information with local entities. As the National Association of Regulatory Utility Commissioners (NARUC) points out, agencies collectively have more resources dispersed across the country than the Commission. We find that the responsibility of disseminating information to local entities is most efficiently placed on this range of state and other agencies, each with specific knowledge and incentives to further public safety in its own jurisdiction.

30. We also are not convinced that allowing an agency with direct access to share its credentials with an associated local entity would alleviate our administrative burdens and disclosure risk concerns, as opined by the Texas 9–1–1 Entities. We reject this approach because it would allow direct access to NORS and DIRS by local agencies whose certifications have not been reviewed and approved by the Commission and are not directly accountable to the Commission. We find that a credential sharing scheme would unacceptably increase the risk that our training and other procedural safeguards would not be implemented, which would make it more likely that NORS and DIRS filings could be improperly used or disclosed.

31. We also find unconvincing, the view of one commenter that ''advocates, researchers and the public,'' among others, should be eligible for direct access purportedly ''to hold

telecommunications providers accountable and monitor the communications rights of impacted communities.'' This approach fails to address the Commission's findings that have long treated NORS and DIRS filings as presumptively confidential to further national security and protect commercially sensitive information. We find that granting such broad access to NORS and DIRS information would effectively render that treatment moot and thereby detract from these objectives.

32. *Eligible agencies must have a ''need to know.''* In the *Second Further Notice,* the Commission proposed that direct access to NORS and DIRS be limited to eligible agencies that have a ''need to know,'' which was defined as ''reasonably requir[ing] access to the information in order to prepare for, or respond to, an event that threatens public safety, pursuant to its official duties.'' We today adopt a modified definition of ''need to know'' that includes only agencies that have official duties that make them directly responsible for emergency management and first responder support functions.

33. Most commenters agree that direct access should be limited to agencies with a ''need to know'' to prevent the over-disclosure of sensitive NORS and DIRS information, though commenters differ in their views on the appropriate definition of the term. We are persuaded by Verizon that a ''need to know'' should be defined to refer to an agency ''having official duties making it directly responsible for emergency management and first responder support functions.'' We find that this definition best achieves the goal of ensuring that only agencies with the greatest and most relevant public safety needs have access to the sensitive information contained in our NORS and DIRS databases. We note that this definition for ''need to know'' is more specific and narrow than what the Commission proposed in the *Second Further Notice* and will minimize the number of disputes over which agencies qualify for access, thus preserving public safety resources. We confirm NCTA's view that an ''event'' giving rise to a ''need to know'' may be either natural or ''manmade.'' While we do not exhaustively enumerate here every type of agency that may qualify for access under our adopted ''need to know'' standard, we expect that qualifying agencies will include state homeland security and emergency management departments, state first responder departments (including fire and law enforcement departments), and state public utility (or public service) commissions. We agree with New York State Public Service Commission and the Public Service Commission of the District of Columbia that state public utility and service commissions typically support public safety and emergency response efforts, including by coordinating the restoration of telecommunications in their jurisdictions.

34. In view of the record, we disagree with the views of the Competitive Carriers Association and T-Mobile who argued that the Commission's earlier proposed definition of ''need to know'' struck an appropriate balance between ensuring that an appropriate set of agencies will have access to NORS and DIRS data for their public safety efforts and reducing the likelihood of improper disclosure. For the reasons noted above, we find that a more objective and narrower standard is necessary for today's program to be administrable and to ensure that the sensitive information in NORS and DIRS filings is not disseminated broadly beyond a small set of core agencies in each state or other jurisdiction.

35. *Demonstrating a ''need to know.''* An agency applying for direct access to NORS and DIRS must demonstrate its ''need to know'' by citing to statutes or other regulatory authority that establishes it has official duties making it directly responsible for emergency management and first responder support functions.

36. We agree with Verizon and NCTA that an objective showing of legal authority, in the form of statues or other regulatory bases, is necessary as part of the application process to ensure that only qualified agencies have direct access to NORS and DIRS filings. We find that the approach we adopt today will avoid protracted disputes and subjective interpretations about what roles and responsibilities an agency may have during an emergency and will guard against the over-disclosure of sensitive NORS and DIRS information.

37. *Scope of Use.* In the *Second Further Notice,* the Commission proposed that NORS and DIRS information accessed by participating agencies be used only for public safety purposes. We adopt this proposal and clarify that the only valid public safety purposes are the same purposes that would give rise to a ''need to know,'' *i.e.,* carrying out emergency management and first responder support functions that an agency is directly responsible for pursuant to its official duties.

38. Several commenters seek confirmation that certain use cases are permitted. We confirm commenters' views that a participating agency's dissemination of information to other individuals responsible for preparing and responding to disasters is an acceptable use. We also confirm commenters' views that the assessment of emergency notification options available in areas impacted by an outage or disaster, including determining whether Wireless Emergency Alert messages can be delivered and, if not, coordinating alternate methods of notification, is an acceptable use. We further confirm the views of the Telecommunications Regulatory Bureau of Puerto Rico and other commenters that identifying trends and performing analyses designed to make long-term improvements in public safety outcomes are acceptable uses. We agree that these long-term efforts are critical for preparing for events that threaten public safety in ways that will reduce the loss of life and property in future outage and disaster scenarios. We are similarly persuaded by the Massachusetts Department of Telecommunications and Cable, which explains the potential value of NORS and DIRS information in its analyses used to improve service and avoid future outages, and the Michigan Public Service Commission, which explains that the information would assist in understanding the nature of outages, ultimately resulting in more resilient networks. We find that these uses reflect carrying out emergency management and first responder support functions by informing the public of danger, or preparing in advance for such danger, to avoid the loss of life and property.

39. We expressly forbid the use of NORS and DIRS information obtained through the procedures we adopt today for non-emergency-related regulatory purposes, including merger review, consumer protection activities, contract disputes with a state, or the release of competitive information to the public. We agree with commenters that such uses of NORS and DIRS data would be inconsistent with the public safety purposes for which the sharing framework was created. Moreover, such uses could create counter-productive incentives for providers to supply superfluous information in their NORS and DIRS disclosures thereby diminishing the public safety value of these filings.

40. *911 fee diversion.* In the *Second Further Notice,* the Commission sought comment on whether it should exclude from eligibility agencies located in states that have diverted or transferred 911 fees for purposes other than 911 and how it should address agency access in states that have inadequately responded to Commission inquiries about their

practices for using 911 fees. We decline to exclude agencies located in fee diverting states from eligibility in today's information sharing framework.

41. Nearly all commenters reject the exclusion of agencies on grounds that they are located in states that have engaged in fee diversion or provided an inadequate disclosure of their fee practices to the Commission. We agree with those commenters who remark that access to NORS and DIRS information, and the important public safety benefits associated therewith, should not be conditioned on whether a state engages in 911 fee diversion. We find this point particularly compelling since, as noted by Colorado Public Utilities Commission and NASNA, diversion may be an act of the state legislature rather than the agency seeking access to NORS and DIRS information.

42. We find that the benefits of providing NORS and DIRS information to entities in these states outweigh the possibility that withholding this information may incentivize legislatures to reconsider fee diversion decisions, particularly as no commenters offered evidence supporting this view. On September 30, 2020, the Commission adopted a Notice of Inquiry seeking comment on ways to dissuade states and territories from diverting fees collected for 911 to other purposes, and on the effects of 911 fee diversion. We are not persuaded otherwise by T-Mobile's conclusory statement supporting the exclusion of agencies, which in relying on comments filed in an unrelated proceeding, fails to address the potential negative impacts of withholding NORS and DIRS information from agencies or the extent to which doing so would motivate legislatures to reconsider their fee diversion decisions.

D. Confidentiality Protections

43. *Direct access conditioned on confidential treatment by agencies.* In the *Second Further Notice,* the Commission proposed that the Commission make all confidentiality determinations implicating the release of confidential NORS and DIRS information pursuant to today's program. The Commission proposed that a participating agency only receive direct access to NORS and DIRS filings if it could agree, under its governing laws, that when it received a request to release NORS or DIRS information under open record laws in its jurisdiction, it would defer to and comply with a Commission determination and not disclose the filings other than as expressly allowed in today's Order or any subsequent Commission determinations. We adopt this proposal.

44. The majority of commenters, including state and local entities, and industry advocacy organizations, support this approach. We agree with Verizon that this approach is ''essential'' to protecting NORS and DIRS information, because requests for disclosure of confidential information would be determined uniformly rather than being left to a patchwork of varying open records law standards among jurisdictions. We also agree with the IACP, which stresses that without the Commission's role in reviewing requests, public safety entities could face ''nuisance lawsuits'' and have their scarce public safety resources diverted as they become ''embroiled in legal challenges or extended discussions regarding the confidentiality of NORS and DIRS information.'' We find that our approach would create a necessary, simple mechanism to control the flow of confidential NORS and DIRS information, even when state and other open records laws vary.

45. Commenters confirm that this proposal is workable in practice. A number of state public utility commissions identify exemptions in their open records laws that allow them to defer to the Commission's FOIA determination in place of making their own. Moreover, no commenter contends that there is a jurisdiction that would not be able to defer to the Commission pursuant to the jurisdiction's open records and other relevant laws. We agree with The Utility Reform Network that state, Federal and Tribal Nation entities are well versed in handling confidential material based on their other programs and that they would therefore be able to adhere to today's confidentiality requirements. We similarly agree with the California Public Utilities Commission and Massachusetts Department of Telecommunications and Cable, which bolster this point by noting that today's confidentiality requirements are familiar to many participating agencies because they resemble ones the Commission separately established for the sharing of presumptively confidential data with states in separate programs involving the Form 477 database and the North American Numbering Plan Administrator database.

46. We are unpersuaded on the current record that the presumption of confidentiality for all NORS and DIRS information is not fully warranted, as some commenters argue. While these commenters contend that NORS and DIRS information often does not contain information that is sensitive for national security reasons, no commenter provides practical guidance on how to distinguish at an operational level those reports that contain such sensitive national security information (or sensitive business information) from those that do not. Because we did not seek comment on this question, and because the record is incomplete as to the types of information, or the specific fields in NORS and DIRS, that these commenters believe should not receive confidential treatment, we are not in a position today to decide upon the merits of these views. We also find that these commenters fail to address the possibility that a collection of NORS and DIRS filings could reflect patterns that implicate national security, even when filings taken individually may not. Moreover, given that we maintain the presumption of confidentiality as to our own use of NORS and DIRS data, we find it logical to require that participating agencies, and those who receive information from them, be held to the same type of confidentiality standards. To do otherwise would allow these entities to disclose the data in ways that would contradict and render meaningless the Commission's own presumptively confidential treatment. Based on the lack of new information provided by commenters on the current record, we decline to reverse at this time the Commission's long-held view that NORS and DIRS information warrants confidential treatment. The Commission acknowledges that some commenters assert that public access to some outage information would benefit the public, and nothing we do today permanently forecloses us from examining this issue further in the future.

47. We also find unpersuasive the view of the California Public Utilities Commission that ''industry's perception'' of the confidentiality of NORS and DIRS data is changing, merely because Verizon and other service providers have decided to increase their public disclosure of outage information around major communications outage events. On the contrary, we believe that a rollback of the Commission's presumption of confidentiality of NORS and DIRS data would actually have the opposite effect of discouraging companies from voluntarily taking meaningful incremental steps to make more information available.

48. We also reject NTCA's position that today's framework should go further and shield NORS and DIRS filings from any disclosure in response to a request filed under state-level FOIA-type laws. The approach we adopt today permits disclosure only when the

state defers to the Commission and the Commission makes a determination, based on the Federal FOIA standard, permitting the disclosure. Because the Commission will consider requests made under state-level open records laws identically to requests made under FOIA, NORS and DIRS information would not be better protected from inappropriate disclosure by specifically blocking from consideration any requests received by participating agencies under their open records laws. We also reject NARUC's view that the Commission's proposal is unnecessary since ''to avoid concerns [in] the tiny minority of States that have arguably deficient FOIA-type protections in-place,'' the Commission need only condition access to the data on states providing some level of confidential treatment. We have not found any practical way to identify the purported ''tiny minority'' of states that have deficient open records laws. Even among states that have ''non-deficient laws,'' we expect that the substance of those laws is likely to vary in ways that would result in the different treatment of certain NORS and DIRS data fields from jurisdiction to jurisdiction. In contrast, the Commission's proposal would advantageously provide a uniform confidentiality standard and thus better protect confidential NORS and DIRS information from unauthorized disclosure.

49. *Agency notifications to the Commission proposed in the Second Further Notice.* In the *Second Further Notice,* the Commission proposed to require that a participating agency notify the Commission: (i) Within 14 calendar days from the date the agency receives a request from third parties to disclose NORS filings and DIRS filings, or related records, pursuant to its jurisdiction's open record laws or other legal authority that could compel it to do so, and (ii) at least 30 calendar days prior to the effective date of any change in relevant statutes or rules (*e.g.,* its open records laws) that would affect the agency's ability to adhere to the confidentiality protections in this information sharing framework. We adopt these proposals.

50. Commenters generally support these proposals and no commenter expressly opposes them. We find that the 14-day notification we adopt today will allow the Commission take appropriate action, including (at the Commission's option) notifying an affected service provider so that the provider can supply its comments on the matter if permitted under the jurisdiction's open records law. We find that the 30-day notification we adopt today will provide the Commission with an opportunity to determine whether to terminate an agency's access to NORS or DIRS filings or take other appropriate steps as necessary to protect this information. As noted in the *Second Further Notice,* we find that these proposals will help ensure consistency in disclosure by many disparate agencies that will receive this information under the terms of today's Order and will instill confidence that submitted information will continue to be protected as it is today.

51. *Additional notifications proposed by commenters.* We reject the views of commenters that additional notifications from the Commission or participating agencies are necessary to ensure that service providers can dispute various types of requests for NORS and DIRS information and thus protect the confidentiality of their shared information. ATIS argues that we should require a notification from a participating agency within 14 days of when it receives a request to share NORS and DIRS data with a local agency. ATIS also argues that for both this notification and the 14-day disclosure request notification the Commission proposed in the *Second Further Notice,* the Commission should be required (as opposed to have the option) to notify service providers to allow them sufficient opportunity to provide any input. ATIS further argues that we should also require participating agencies to notify service providers at least 30 calendar days prior to the effective date of any change in relevant statutes or rules that could implicate the providers' filings. CenturyLink similarly argues that service providers should be made aware when a local agency receives access to NORS and DIRS data. ACA Connect contends that an agency should be required to submit, apparently to the Commission, the name of all recipients that it shares information with.

52. We reject these views, including to the extent they would require that participating agencies provide notification directly to service providers. Our rules require that the Commission provide notice to service providers, and allow them an opportunity for comment, when it receives FOIA requests for their NORS and DIRS filings. 47 CFR 0.461(d)(3). Today's rules require that a participating agency provide the Commission, not service providers, with notice when it receives a request for the NORS and DIRS filings under its state or other open-records laws. We find that the burden of requiring participating agencies to provide a voluminous number of new notifications to service providers on receipt of sharing requests (which are likely to be received when major outages or other public safety events are on-going) to be an unwarranted diversion of scarce public safety resources from state, Tribal Nation, and local agencies when they may be needed most. We further note that providers have the ability and incentive to monitor potential changes in confidentiality laws (where the providers operate) as a matter of general business practice, and we find it redundant and inefficient to ask participating agencies to commit their limited resources to this task. To address the concerns of record that providers would not receive notice when the Commission is notified of a request under state-level open records laws, Commission Staff will post a notification to the Commission's Electronic Filing Comment System (EFCS) in the present docket, on receipt of such notification from a participating agency, identifying the existence of the open records request, the jurisdiction under which the request was received and the service provider(s) whose filings are implicated by the request. Interested parties, including service providers, may use the push notification feature in ECFS to receive an alert when filings have been posted in the present docket, further facilitating prompt notification. We find that this approach appropriately balances providing notification to service providers of the existence of such requests with our concerns that requiring participating agencies to provide direct notifications to providers could be overly burdensome of scarce public safety resources.

53. We recognize, however, based on these comments, a need for increased accountability in how participating and non-participating agencies use NORS and DIRS information. We therefore adopt the requirement that each participating agency make available for Commission inspection, upon Commission request, a list of all localities for which the agency has disclosed NORS and DIRS data. The Commission may, at its discretion, share such lists with the implicated providers. While this requirement falls short of some commenters' requests for additional notifications, we find that it appropriately balances maintaining accountability on the part of participating agencies with minimizing the day-to-day burden on agencies for participating in the sharing program.

54. The Commission is aware that agencies that voluntarily elect to participate in this information sharing

framework may incur some costs due to the obligation to notify the Commission when they receive requests for NORS filings, DIRS filings, or related records and when there is a change in relevant statutes or laws that would affect the agency's ability to adhere to confidentiality protections. These costs include modest initial costs to review and revise their confidentiality protections in accordance with the framework we adopt in today's Order, and minimal reoccurring costs to notify the Commission as described above. We cannot quantify agency costs for these activities, which would vary based on each participating agency's particular circumstances, including the number of requests or changes in law that would necessitate notifications, as we lack the record evidence to quantify such benefits. This lack of quantification, however, does not diminish in any way the advantages of providing access to NORS and DIRS information to improve the safety of residents during times of telecommunications outage infrastructure distress. We conclude that the benefits of participation would likely exceed the costs for any agency electing to participate in today's framework; otherwise, such an agency could avoid such costs altogether by deciding not to participate in this information sharing. We find that the benefits attributable to providing NORS and DIRS access to these agencies and other parties are substantial and may have significant positive effects on the abilities of these entities to safeguard the health and safety of residents during times of natural disaster or other unanticipated events that impair telecommunications infrastructure.

55. Moreover, we are unaware of any alternative approaches with lower costs, nor have any been identified by commenters, that would still ensure that the Commission promptly and reliably learns of the actions described above that may lead to the disclosure of NORS or DIRS-related information. Lessening the promptness or reliability of notifications to the Commission would disincentivize providers from supplying robust and fulsome NORS and DIRS reports and therefore reduce the benefits that those filings would provide to the Commission and participating agencies alike. We find that this reduction in benefits would outweigh the expected modest cost savings to those participating agencies that would be required to provide notifications under the framework we adopt today.

E. Preemption and its Relation to State, Federal and Other Reporting Requirements

56. We reject requests from commenters that urge the Commission to preempt state outage reporting requirements. Some industry commenters, including T-Mobile and CenturyLink, generally favor preemption as they believe it will, among other considerations, promote uniformity in the outage reporting requirements they must observe. For example, T-Mobile states that ''[c]onsistent with its recognition that there should be consistency with regard to outage information available to the public, the Commission should preempt state laws requiring the submission of outage data by wireless carriers. These laws often establish different thresholds for trigging outage reporting and could cause public confusion.'' CenturyLink also comments that ''[a]pproximately 34 states have outage reporting requirements that, in most cases, do not align with the FCC's reporting criteria. Complying with these various state rules poses both a resource burden and a systems burden that would lack a corresponding benefit if states obtain outage information by accessing NORS/DIRS.''

57. We note that the actions we take today would not place any new NORS, DIRS or state-level filing requirements on service providers and we find no compelling reasons to upset our information sharing framework by implementing any additional requirements for service providers at this time. We further agree with the California Public Utilities Commission that ''preemption is not an issue in the *FNPRM,*'' and acknowledge that because the Commission did not seek comment on this issue, the record on this significant Federalism question is not fully developed. Nothing in this paragraph is intended to narrow limit, or broaden a party's opportunity to seek redress under all applicable existing laws, including through declaratory judgement in accordance with 47 CFR 1.2 of or rules, on grounds that a state rule or law is allegedly preempted by Federal law or rule, including our part 4 outage reporting rules. Such rights remain undisturbed by today's Order. As we have indicated above, we did not seek comment on the issue of preemption in this proceeding, and the record here is insufficient to make any determinations on a need to launch further proceedings on this issue. For this reason, we also agree with the California Governor's Office of Emergency Services that ''the FCC should decline any invitation to broadly preempt state law because the question is outside the scope of the present proceeding.'' Moreover, the Commission is persuaded by commenters, including NASUCA, NARUC and California Governor's Office of Emergency Services, underscoring that, currently, states can determine what outage reporting requirements are most appropriate for their jurisdictions.

F. Safeguards for Direct Access to NORS and DIRS Filings

58. We adopt specific safeguards to ensure the continued confidentiality, appropriate sharing, and limited disclosure of NORS and DIRS information. These safeguards include providing read-only access to NORS and DIRS filings, limiting the number of users with access to NORS and DIRS filings at participating agencies, requiring participating agencies to receive training on their privileges and obligations under the framework (such as reporting any known or reasonably suspected breach of protocol to the Commission and service providers), and potentially terminating access to agencies that misuse or improperly disclose NORS and DIRS data.

59. As several record commenters express overall concerns about adequately securing NORS and DIRS information, our safeguards strategically respond to potential NORS and DIRS data security threats. For example, our training requirements are intended to set clear parameters for how agencies use NORS and DIRS filings, our limits on agency user accounts will help us control account access, and our measures to audit account access will enable us to detect and quickly investigate potential misuse. We expect that, collectively, these safeguards will protect the NORS and DIRS data we will share under our framework from inappropriate use and minimize the potential harm from data breaches as noted by certain record commenters. Based on our review of the record, we find that the safeguards we adopt today appropriately balance the need to preserve the confidentiality of NORS and DIRS information against the need to provide agencies with critical information to assist them with protecting public safety.

1. Read-Only Direct Access to NORS and DIRS and Limits on Access to Historical Filings

60. In the *Second Further Notice,* the Commission renewed the Commission's proposal, first made in the *2016 Report and Order and Further Notice,* that participating state and Federal agencies

be granted direct access to NORS and DIRS filings in a read-only manner to help prevent the improper manipulation of NORS and DIRS data. We now adopt this proposal, finding that this approach is vital to protecting NORS and DIRS filings from improper use. We observe that all industry, public safety organizations, and state and local government parties commenting on the Commission's read-only proposal agree with it, with some specifically noting that they believe it will be an effective safeguard against the improper manipulation of NORS and DIRS data. Further, ATIS states that it strongly supports read-only access as a means ''to further enhance confidentiality.'' We agree with commenters that granting read-only access will help reduce the risk that participating agencies' employees or others could make unauthorized modifications to the filings, whether unintentional or malicious, and ensure the accuracy of information shared via the information sharing framework.

61. Some commenters encourage the Commission to implement additional technological measures to prevent the improper use of information, including mechanisms to limit the manipulation and improper access of printouts and downloadable NORS and DIRS data, such as placing confidentiality notifications or headers and watermarks on viewable and printable documents. We acknowledge that these recommendations would serve as useful safeguards against the improper use of outage data and find it would be in the public interest to further develop the record on the suitability of these measures and safeguards. We thus direct PSHSB to seek, via Public Notice, further information on the cost, manner and technical feasibility of implementing these technological measures and safeguards in NORS and DIRS and to make determinations on which of these measures and safeguards, if any, would be suitable for implementation in NORS and DIRS. We further delegate authority to PSHSB to implement in NORS and DIRS any measures and safeguards that it determines suitable and in the public interest based on the record developed in response to the Public Notice. Cognizant of the effective date of today's rules, we instruct the Bureau to work expeditiously to make its determinations and, if applicable, the associated revised implementations to NORS and DIRS. These implementations should not impose new regulatory requirements on service providers or additional conditions on agencies seeking access to the outage data. Nothing in this paragraph will serve as basis for delaying the effective date of the rules we adopt today.

62. The Commission also acknowledges the proposal from the Massachusetts Department of Telecommunications and Cable that the Commission ''establish a mechanism for Authorized State Agencies to comment on and give feedback to the FCC on the shared data,'' as the Massachusetts Department of Telecommunications and Cable believes that ''states may have information that does not appear in or that contradicts NORS or DIRS data, information which could allow the FCC to improve its data collection.'' We find that it is premature to determine whether this would be a useful feature for participating agencies, and we believe it is appropriate to wait until these agencies have had experience with NORS and DIRS before building this functionality into those systems. We suggest that participating agencies that wish to share information related to contents of NORS and DIRS filings instead informally contact Commission staff with their concerns.

63. *Access to Historical Filings.* The Commission proposed in the *Second Further Notice* to grant participating agencies access only to those NORS and DIRS filings made after the effective date of this proposed information sharing framework, even if the agency begins its participation at a later date. We adopt this approach today.

64. We are persuaded by industry commenters who argue that the Commission should not make available NORS and DIRS filings submitted before the effective date of the framework because the Commission should honor the expectation of confidentiality that providers had at the time they submitted them. For example, NTCA asserts that ''providers submitted their NORS and DIRS filings with the expectation that only the Commission would have access to those filings.'' We agree, and believe it would be inappropriate in this context to adopt rules to allow retroactive carte blanche access to these filings by agencies joining the framework as providers had no notice that we would share such confidential information with participating agencies and maintained an expectation that we would withhold them from disclosure. We also find that providing access to filings submitted before the effective date of the proposal would be technically difficult to implement, as it would require the modification of tens of thousands of previously filed outage reports to ensure that access can be limited by jurisdiction. Nonetheless, while we decline to adopt proposals to share filings submitted before the effective date of the framework, we also agree with public safety and state government commenters that having access to past filings could help identify trends in outages and be useful to agencies in planning and responding to outages to improve network reliability, and we reject industry commenters like CenturyLink, that argue to the contrary. On balance, however, we find that the need to preserve the confidentiality of filings submitted before the effective date of the framework is stronger than any rationale posited to support access to these filings. We believe that providing participating agencies with direct access to filings submitted after the effective date of the framework, even if their participation begins at a later date, is the optimal approach as it provides fair notice to service providers while also providing agencies with information to assist them with identifying outage trends over time and enhance their preparedness and recovery efforts as noted above and in the *Second Further Notice.*

65. We further note that ATIS argues that it ''does not believe that it is necessary to provide access to filings made before a state has been granted access,'' but ''should access to prior reports be made available,'' access to past reports should be limited to ''no earlier than 90 days,'' and ATIS proposes that should additional NORS and DIRS data be needed by participating agencies, the Commission could grant it ''upon a showing of reasonable necessity. We reject ATIS's argument as we do not find that ATIS provides a compelling explanation regarding why limiting access to reports to no earlier than 90 days is an appropriate window (as opposed to another window of time). Moreover, the Commission does not find any harm in sharing filings older than 90 days so long as they were made after the effective date of the framework, consistent with our decision today, as filers would be on notice of the prospect that their filings could become available to states that subsequently demonstrate their eligibility for access. The Commission also finds that requiring participating agencies to demonstrate a reasonable necessity for additional NORS and DIRS reports, as ATIS suggests, could impede efficient access to available NORS and DIRS filings.

2. Disclosing Aggregated NORS and DIRS Information

66. In the *Second Further Notice,* the Commission proposed to allow

participating agencies to provide aggregated NORS and DIRS information to any entity including the broader public. In doing so, ''aggregated NORS and DIRS information'' was defined to refer to information from the NORS and DIRS filings of at least four service providers that has been aggregated and anonymized to avoid identifying any service providers by name or in substance.'' The *Second Further Notice* articulated several potential public safety benefits stemming from the public disclosure of aggregated NORS and DIRS information, including its use in keeping the ''public informed of on-going emergency and network outage situations, timelines for recovery, and geographic areas to avoid while disaster and emergency events are ongoing.''

67. Based on our review of the record, we continue to expect that the Commission's proposal will yield these benefits and adopt it today. We agree with commenters that assert that appropriate use of aggregation can provide useful information to public safety entities and the public while still maintaining the confidentiality of data submitted by providers.'' We disagree that agencies should be permitted to publicly disclose NORS and DIRS data that are not aggregated and anonymized as proposed, and accordingly, the rules we adopt today do not permit data to be treated as disclosable under the definition of ''aggregated NORS and DIRS information'' unless the data has been drawn from at least four service providers. Based on our experience in determining whether aggregated disclosure is appropriate in other contexts, we believe that where there are fewer than four service providers, the disclosure of aggregated outage information, particularly in combination with providers' specific knowledge of competitors in the region, could inadvertently reveal one service provider's commercially sensitive information to another. Even where the data is aggregated from four service providers, however, under the approach to disclosure we adopt today, agencies are prohibited from publicly disclosing such data if they cannot ensure that no one can derive the information of any individual company from the aggregation. For example, aggregating the data from four service providers may not sufficiently anonymize the data if one provider's data constitutes an overwhelming share of the total.

68. To help mitigate concerns regarding improper aggregation due to lack of expertise, we include exemplar aggregated and anonymized reports based on hypothetical data in Appendix D. This Appendix also contains non-binding guidelines for aggregating NORS and DIRS data. We expect this Appendix will show participating agencies how to aggregate users and cell sites affected by outages from NORS and DIRS reports in a manner that ensures anonymization to prevent misuse and address any potential confusion participating agencies have about aggregating NORS and DIRS data. As stated in this Appendix, we note that aggregated data may not reflect the exact number of users affected by a service provider's outage and is only used for situational awareness, and agencies' failure to properly aggregate data could lead to the improper disclosure of service providers' confidential information and may result in termination of their access to NORS and DIRS filings by the Commission. We believe that with the guidance we provide agencies today, they will be able to aggregate and anonymize NORS and DIRS data in accordance with our rules.

69. Several commenters have urged the Commission to adopt a broader definition of aggregation to enable aggregation in what they have described as the numerous areas that have fewer than four providers. For example, the California Public Utilities Commission comments that the ''proposal fails to consider aggregation in the many instances where an area is only served by two major wireline service providers.'' Allowing the public dissemination of NORS and DIRS information where there are only two providers, for example, however, would unnecessarily reveal confidential information about each of those providers to the other. We believe that the dangers posed by such disclosure substantially outweigh the benefits of disclosure to the public, given the availability of the data to participating agencies. We recognize that an agency's ability to provide aggregated information may depend on the types (*e.g.,* wireless or wireline) and numbers of providers serving a region and the unique circumstances of an outage; there, however, aggregated disclosure may be possible without an unauthorized disclosure of confidential information given the multiple providers of each type and at least four providers overall. Even so, there may be situations where, for an example, an outage affects only the two wireline providers in an area, and not the two wireless providers. In that case, only the two wireline providers would be filing reports, and any aggregation of their data would fall short of the four-or-more provider requirement for public disclosure. We find that this approach is necessary to ensure the confidentiality of NORS and DIRS information and strikes a reasonable balance between the relevant policy considerations. This policy does not override agreements certain wireless providers have made with the Commission regarding the use of aggregated DIRS data consistent with the Wireless Network Resiliency Cooperative Framework.

70. We reject one commenter's proposal that, if aggregated data may not be disclosed because of an insufficient number of providers, then the Commission should first conduct a ''risk assessment'' to determine how adversely affected the public would be by not receiving such data, and second, if the risk assessment shows harm, then the Commission should modify its ''need to know'' approach by disclosing information under a protective order to ''public safety officials, researchers, and public interest representatives.'' As a threshold matter, it is unclear what this commenter means by ''risk assessment,'' what specific metrics this commenter believes the ''risk assessment'' would use to measure what it refers to as ''the impact of disparate access,'' and what costs are associated with such an assessment to the Commission. To the extent this commenter is suggesting that such a risk assessment be used to identify parties that would qualify under the ''need-to-know'' standard as recipients of confidential information, we believe it is more appropriate to rely on state agencies to employ our new rules to share outage information downstream to the extent necessary to address an emergency situation for all affected within the community. We anticipate that, in the appropriate circumstances, public safety officials downstream from a participating state agency might have a ''need to know'' and may thus obtain confidential outage information from such an agency that has determined it permissible under our rules to share such information in this manner. It is perhaps less likely, however, that public interest organizations or researchers would qualify for such sharing under our rules. Insofar as this commenter would have us relax the ''need-to know'' requirements to allow such expanded sharing, we reject that proposal, as we believe that the balance we have struck between disclosure of some information to facilitate localized responses to emergencies and service outages caused by them, on the one hand, and the protection of sensitive data from unnecessary disclosure, on the other, will best serve the overall public

interest. We also note that no commenter has recommended a practical alternative to the Commission's proposal that would enable aggregation at a lower threshold while ensuring that national security and competitive concerns are addressed. Additionally, we note that under the Commission's proposal, participating agencies in areas with fewer than four communications providers have access to this data for public safety purposes consistent with the rules we adopt today; they simply may not disclose the data publicly.

71. ATIS and SIA argue that the Commission, instead of participating agencies, should produce or approve aggregated reports for public dissemination consistent with its existing practices and because of the Commission's expertise with issuing these reports. We reject these proposals. As dozens—or hundreds—of agencies might participate in the information sharing framework, and there could be several potential emergencies, and the need for prompt resolution of those emergencies and related outages, we find that it would be impractical and administratively burdensome for the Commission to produce aggregated and anonymized reports on behalf of all participating agencies seeking to publicly disseminate aggregated reports under the Commission's proposal.

72. We note that T-Mobile also contends that aggregated data should be disclosed only by the Commission because, among other considerations, ''public disclosure by agencies other than the FCC could ultimately mislead or confuse the public'' during times of crises. T-Mobile asserts that agencies' unfamiliarity with the data can lead to agencies either misinterpreting the data or producing aggregated data reports that differ from each other, and that ''these disparate reports would most likely cause confusion and potentially hinder, rather than help, situational awareness.'' T-Mobile further argues that as an alternative, the Commission should share data it already aggregates, such as the aggregated DIRS reports it publishes on its website. We reject T-Mobile's arguments. We find that, like the Commission, participating agencies with a ''need to know'' have or will quickly develop the necessary expertise to be able to understand NORS and DIRS information, coordinate with the Commission and regional partners where necessary, and release information to the public in a responsible way. For example, while NORS and DIRS filings often estimate the potential impact of service disruptions rather than reflect the exact number of users affected by an outage, those estimates can still effectively inform the public's understanding about the effect outages across several providers following a disaster and we expect that participating agencies will be able to communicate that information to the public in a productive way.

73. We do not agree that existing Commission data aggregations can replace state and local agencies' needs to inform the public about outages and infrastructure status. For example, we anticipate that some agencies will determine it is appropriate to release information to the public more frequently than once a day or in specific regions not covered by the Commission's public DIRS reports or any aggregations of outage data that it might prepare. Also, as we stated above, we believe that it would be impractical and administratively burdensome for the Commission itself to fulfill requests to aggregate NORS and DIRS data from potentially numerous participating agencies, and such an approach could delay the Commission's assistance with resolution of the underlying emergencies prompting the need to share the reports. To the extent that the Commission identifies any instances of an agency using NORS or DIRS information in an improper way, it will take steps to ensure that improper disclosure does not occur in the future.

3. Direct Access to NORS and DIRS Filings Based on Jurisdiction

74. In the *Second Further Notice,* the Commission acknowledged that outages and disasters can cross multiple jurisdictional boundaries and therefore proposed enabling a participating agency to receive direct access to all NORS notifications, initial reports, and final reports and all DIRS filings for events reported to occur at least partially in their jurisdiction including multistate outages. We also proposed enabling participating agencies to receive access to NORS and DIRS filings for outage events and disasters that occur in portions of their jurisdictions but also span across additional states. We sought comment on, *inter alia,* whether participating agencies would make use of NORS and DIRS filings that affect states beyond their own, whether participating agencies have a ''need to know'' about the effects of multistate outages and infrastructure status outside their jurisdiction, and whether any harms could potentially arise from granting a participating agency access to multistate outage and infrastructure information.

75. We adopt these proposals today as we expect they will enhance public safety by providing agencies with thorough information regarding outages to aid in their response and recovery coordination efforts. Several public safety and state government commenters support granting participating agencies multistate outage information about outages occurring at least partially in their jurisdictions. We agree with these commenters that access to this information would ensure that participating agencies have a complete picture of outages and their causes and would improve coordination between jurisdictions in response to disasters. We also agree with the Pennsylvania Public Utility Commission that participating agencies are ultimately in the best position to determine what effects of multistate outages and infrastructure status outside their jurisdiction are relevant to informing their responses to the event.

76. We disagree with commenters that argue that state access should be restricted to outage reports for those portions of events occurring in that state. For example, the Competitive Carriers Association contends that ''any decision to allow access to information about adjacent states should be made on a case-by-case basis only upon a showing of need,'' as it believes ''such geographic limitation is an important mechanism for the Commission to ensure that data is used only for intended purposes.'' We find that participating agencies would be better able to address public safety matters, including by improving their outreach and coordination with other jurisdictions in response to disasters, if they have a more complete picture of outages and their causes. ATIS further urges the Commission to prohibit the sharing of data from multistate events with agencies until it addresses how to effectuate this change in NORS. We also find that modifying NORS forms to allow users to select more than one state when submitting a NORS filing, as discussed further below, will be adequate to allow the Commission to ensure that participating agencies can only access filings for outages that at occur least partially in their jurisdiction.

77. *Sharing of Complete NORS and DIRS Reports and Filings.* In their comments concerning the scope and type of confidential information that should be shared with participating agencies, some industry commenters opine that some reports and fields in NORS and DIRS, such as root cause analyses, sympathy reports, reports on simplex events, contact information, and equipment types, are irrelevant and likely to cause confusion and contain confidential information. ATIS also

states information regarding ''special offices and facilities in Telecommunications Service Priorities (TSP) 1 and 2'' in NORS filings ''provide no relevant public safety information and should therefore not be shared with state agencies.'' A sympathy report contains information regarding a service outage that was caused by a failure in the network of another company. A simplex report contains information about which diversity of resources prevented a failure in a network from causing a loss of service. TSP is an FCC program that directs telecommunications service providers to give preferential treatment to users enrolled in the program when they need to add new lines or have their lines restored following a disruption of service, regardless of the cause. In NORS, providers can indicate if TSP was involved during service restoration. A root cause analysis indicates the underlying reason why the outage occurred or why the outage was reportable. CTIA and Verizon recommend the Commission convene a workshop to discuss practices for inter-jurisdictional sharing of information, which USTelecom supports as a way to determine what information is necessary to share.

78. On review, we reject most commenters' proposals to share only certain types of outage filings made in NORS and DIRS and reject proposals to convene workshops to identify the appropriate types of NORS and DIRS data to share. We agree with ATIS that reports related to simplex events as contained in NORS filings should not be shared with participating agencies. These reports contain information that helps identify which diversity of resources prevented a failure in a network from causing a loss of service, which could be helpful for analyzing trends in outages, but we find that this information is not immediately relevant to emergency response. However, we note that sympathy reports and reports containing information about TSPs contain actionable information on outages that could be of use to public safety officials for emergency response or service restoration and we decline to exclude these reports from NORS filings. For example, sympathy reports contain information regarding service outages that, while caused by a failure in the network of another provider, nonetheless have an effect on the reporting service provider that may have public safety implications. Moreover, information about TSPs may be helpful to emergency response officials to indicate which repairs are being prioritized by service providers.

79. For the NORS filings that are shared with participating agencies, including notifications, initial and final reports, we find that their contents about service outages, such as dates and times of incidents, geographic areas affected, effects of outages on 911 service, the numbers of potentially affected users, and causes (including information about any affected equipment) are highly relevant to agencies that seek to increase their situational awareness of emergency events and coordinate disaster response and recovery efforts. Furthermore, in response to several commenters' position that some fields in NORS reports are too sensitive or confusing to share and should be excluded, we expect participating agencies will be able to discern which information from various types of NORS and DIRS filings is relevant to their own circumstances during various stages of public safety events, particularly as we expect that participating agencies will possess sufficient technical and operational expertise to understand the information that some commenters maintain could be confusing. We also find that the confidentiality requirements and safeguards we adopt today will protect sensitive NORS information from improper use and disclosure. We recognize that, once the information sharing framework becomes effective, participating agencies may initially engage the Commission (and potentially service providers, through their existing relationships) with questions about NORS and DIRS data, which will lead to more effective use of all types NORS and DIRS filings over time.

80. We specifically reject the view that all of a service providers' contact information should be excluded in the NORS and DIRS filings and information we share with participating agencies. As noted by the Michigan Public Service Commission, we expect that agencies' technical staff will review NORS and DIRS filings and that the staff will occasionally require contact with providers experiencing outages in their jurisdiction to better understand and resolve substantive issues. Because we expect that agencies will analyze NORS and DIRS information in similar ways to the Commission, we disagree with ATIS's view that all contact information supplied to the Commission with a filing should be excluded from sharing. However, we agree with commenters that it is unnecessary to share with participating agencies the contact information of those individuals that solely file NORS or DIRS information and do not have substantive details to share about an outage or infrastructure status. We find that this approach strikes an appropriate balance between ensuring participating agencies have access to the substantive information they need and avoiding unproductive contact that can potentially distract from the making of timely filings. We note that, currently, NORS and DIRS give providers the option to list primary (or first) and secondary contacts, either for an outage (NORS) or generally for the provider (DIRS). We clarify that the providers should enter as their primary contact an individual that they specifically designate for substantive follow-up discussion about an outage or about infrastructure status. For the secondary contact, providers should identify the individual who undertakes the administrative task of preparing and filing applicable reports in NORS and DIRS. By following this guidance, providers can help ensure consistency in the communications between themselves and participating agencies.

81. *Tribal Nation Government Agency/State Agency Access to Multistate Event Data.* In the *Second Further Notice,* the Commission asked whether a participating Federally recognized Tribal Nation agency that receives direct access to NORS and DIRS filings has a ''need to know'' about events that occur entirely outside of its borders but within the border of the state where the Tribal land is located, or if a state agency should ''receive direct access to NORS and DIRS filings reflecting events occurring entirely within Tribal land located in the state's boundaries. The Commission further asked whether any harms could ''arise from granting Tribal Nation authorities access to outage and infrastructure information outside of their territories,'' and sought comment on whether ''Tribal Nation authorities' access to NORS and DIRS filings should be limited only to those aspects of multistate outages that occur solely in their territories.''

82. NASNA and the Colorado Public Utilities Commission, the only two commenters opining specifically on this issue, both agree that a Federally recognized Tribal Nation agency that receives direct access to NORS and DIRS filings can have a 'need to know' about events that occur entirely outside of its borders but within the border of the state where the Tribal land is located. We are persuaded by NASNA and the Colorado Public Utilities Commission's comments and note that no commenter opposes this approach. We adopt the proposal that a Federally recognized Tribal Nation agency may

receive direct access to NORS and DIRS filings for events that occur entirely outside of its borders but within the borders of the state where the Tribal land is located and, conversely, that a state agency receive direct access to these filings reflecting events occurring entirely within Tribal land located in the state's boundaries to the extent these filings are available, and access would not impinge upon Tribal sovereignty. We also grant Tribal Nation agencies direct access to NORS and DIRS filings for outage events and disasters that occur in portions of their jurisdictions but also span across additional states. As the Commission stated in the *Second Further Notice,* because of the technical nature of many outages, equipment located in a Tribal land could impact service in the states in which Tribal lands are located, and we expect this action to enhance the situational awareness of Tribal Nations, and the states in which they are located, regarding service outages and thereby improve public safety. We note that NASNA supports the Commission's proposal to give state agencies direct access to NORS and DIRS filings for events occurring entirely within Tribal land located in a state's boundaries to improve information sharing between states and Tribal nations. NASNA states that ''it would be most efficient to allow direct access to data that relates to incidents within a state agency's state boundaries, and to a tribal entity's tribal jurisdiction,'' and comments that this approach ''gives the states and tribal entities the ability to share data when it is appropriate.'' We note that this approach does not impact Tribal sovereignty as under our framework, outage data will be provided in the first instance by the provider to the FCC, and only thereafter shared with a Tribal entity.

83. *Technical Implementation.* In the *Second Further Notice,* the Commission sought comment on aspects of the technical implementation of its proposals regarding direct access to NORS and DIRS filings based on jurisdiction, including its assertion that service providers would incur minimal, if any, burdens related to DIRS because they would not need to modify their DIRS reporting processes to accommodate multistate reporting. The Commission also proposed changing the Commission's NORS form to allow users to select more than one state when submitting a NORS filing, consistent with the proposal to allow access to outages that span multiple states. The Commission estimated the cost of such a change for the nation's service providers to be $3.2 million and sought comment on this proposal and any potential alternatives, including any necessary adjustments to account for Tribal land borders. While a few commenters expressed concerns about the accuracy of estimated costs to service providers, no commenters provided cost data or analysis to support their concerns or rebut the Commission's cost estimates. Similarly, while some state agency and advocacy organizations expressed concerns that it will be burdensome for voluntarily participating agencies to relay information they retrieve from the NORS and DIRS databases to ''downstream'' entities, none of these entities attempt to quantify the costs associated with these activities. In the absence of any cost analyses or other cost data quantifying alternative cost estimates, the Commission continues to rely upon the estimates discussed in the *Second Further Notice* indicating that the nation's service providers will incur total initial set up costs of $3.2 million based on the Commission's estimate of 1,000 service provider incurring costs of $80 per hour and spending 40 hours to implement update or revise their software used to report outages to the Commission in NORS and DIRS.

84. We thus adopt this proposal consistent with our view that it will allow the Commission to effectuate our provision of access to filings for outages that span more than one state, and we conclude that the benefits of today's program far exceed the costs. We note that commenters did not address the Commission's assessment that service providers would likely incur minimal to no costs to accommodate DIRS reporting as DIRS form already requests filers to include data at the county level. However, most parties commenting on the Commission's proposed NORS modification support the NORS modification. For example, NCTA supports this approach because it allows the Commission to limit participating agencies' access to information about those outages that occur within their jurisdiction. Furthermore, CenturyLink states that also it prefers this approach, provided that the Commission does not require state-specific impacts to be broken out for each reported outage. This change in NORS reporting can be accomplished without revising section 4.2 of our rules as section 4.11 of our rules already requires that, *inter alia,* communications providers supply, in their NORS filings to the Commission, information on the geographic area affected by an outage using the Commission's approved Web-based outage reporting templates. Here, the Commission is merely updating the form of its templates to further facilitate jurisdiction-specific access.''

85. We note that NTCA ''recommends the Commission undertake a cost benefit analysis of any proposed changes to the method in which providers submit information into the NORS and DIRS systems to ensure any burdens imposed on providers caused by having to modify the way they report outages and any additional time needed to report outages to meet any new requirements are outweighed by the benefit to public safety.'' As we note above, we have performed this analysis and find that the changes we adopt today ensure that the burdens imposed on providers are outweighed by the public safety benefits of our information sharing framework. We further acknowledge commenters' proposals to include Tribal Nation agencies in the list of jurisdictions for providers to choose from in NORS. However, we decline to adopt these proposals because we find that it would be administratively burdensome and difficult to continuously track the full extent of existing Tribal Nation agencies to include and update in NORS. However, we note that the approach we adopt above, to give Tribal Nation agencies access to outage reports within the border of the state where the Tribal land is located, would achieve the same goals in a less burdensome manner.

86. Additionally, in the *Second Further Notice,* the Commission asked, as an alternative, whether it should require service providers to submit several state-specific filings instead of submitting single aggregated filings for each outage that list all affected states. All parties commenting on this issue disagree with this approach and assert that it would increase reporting burdens on service providers. NASNA notes that this proposal ''certainly seems less efficient and more time consuming for the providers than making the proposed change to the Commission's reporting form, but since the end result to the participating state agencies is the same, NASNA leaves it to the providers to express its preference on this matter.'' CoPUC's comments echo NASNA's on this issue. Based on our review of the record, we are persuaded by comments underscoring the burdens this approach would impose on service providers and, thus, we decline to adopt it.

4. Limiting the Number of User Accounts per Participating Agency

87. *Presumptive Limits on User Accounts.* In the *Second Further Notice,* the Commission proposed to presumptively limit the number of user

accounts granted to a participating agency to five accounts for NORS and DIRS access per state or Federal agency with additional accounts permitted on an agency's reasonable showing of need. Furthermore, to ''reduce the reliance of any one agency on another by allowing each to apply for direct access to NORS and DIRS filings,'' the Commission also proposed, in the *Second Further Notice,* that the Commission review all reasonable requests from state and Federal agencies, rather than proposing a presumptive limit on the number of participating agencies eligible for direct access to NORS and DIRS filings.

88. We adopt the Commission's proposals today as we find that that they will limit access to NORS and DIRS information to the employees that are intended to receive it and allow participating agencies to identify misuse by specific employees. Colorado Public Utilities Commission and NASNA recommend that the language of the Commission's proposal be clarified to read that ''access should be up to five employees per agency, not per state.'' We adopt this clarification today for precision. We note that the majority of record commenters support the Commission's proposal to presumptively limit the number of user accounts, underscoring the *Second Further Notice's* assertion that it is an important safeguard to minimize the potential for over-disclosure of sensitive information. For example, ACA Connects notes that implementing this measure will ''limit the risk of improper use or disclosure of the data.'' However, we disagree with ATIS that we should ''better define what a 'reasonable showing of need' would entail'' for granting additional accounts to agencies. While some factors that we expect could help demonstrate a reasonable showing of need include the jurisdictional area that an agency serves or the number of public safety functions for which it is responsible, we decline to require or define specific factors and will decide all requests on a case-by-case basis.

89. NASNA and the Colorado Public Utilities Commission support the Commission's proposals to review all requests for direct access from eligible agencies and not to restrict the number of potentially participating agencies. Verizon argues that the ''Commission should adopt a presumption that two agencies within a state may have access to the reports,'' as it asserts this action ''would better reflect that most states maintain both a single regulatory commission with some public safety-related responsibilities and a statewide executive branch emergency management agency.'' Verizon further argues that the ''Commission would have discretion to expand this number upon a good faith showing as this governance structure may vary among states, but reducing the presumptive number would help incent different state agencies to coordinate their information gathering efforts in advance of major outage events.''

90. We reject Verizon's proposal that the Commission adopt a presumption that two agencies within a state may have access to NORS and DIRS filings. We expect that participating agencies will indicate, in their application for access, the legal authority that charges them with promoting the protection of life or property. This showing will allow us to best assess whether specific state agencies should have access to these filings. We also find that allowing only two entities to have access to NORS and DIRS filings could necessitate a competitive process to determine which agency would get selected, which would delay access, not have clear standards, and may lead to disharmony among agencies that need to coordinate and cooperate. Additionally, we find that granting access to all qualifying agencies will make each of those entities more accountable to the Commission as they would have to bind themselves to the program's requirements when signing the certification.

91. *Agency Assignment and Management of User Accounts.* The *Second Further Notice* proposed requiring that ''an agency assign each user account to a unique employee and manage the process of reassigning user accounts as its roster of employees changes.'' As we continue to find that these proposals will minimize the improper use of NORS and DIRS information and give participating agencies flexibility for managing user accounts, we adopt them with certain modifications to further strengthen our account management requirements. The Commission will retain for its records the unique account identifiers associated with each agency. We note that while ATIS specifically expresses support for the *Second Further Notice's* proposal that agencies assign user accounts to employees and manage the reassignment process for these accounts, most commenters do not rebut the necessity of these proposals to protect against improper disclosure. However, some industry commenters propose placing additional limitations on agency access to prevent improper use, which we adopt or reject *infra.*

92. AT&T recommends the Commission designate a ''coordinator'' to be responsible for ''an agency's access to confidential NORS/DIRS information,'' as it believes this will ''ensure that each potential recipient has a 'need to know' basis for access to the information, the recipient understands the duty to maintain confidentiality, and the information will be destroyed in a secure manner when there is no longer a need to know.'' AT&T states that after designation ''the coordinator would have the ability to approve additional requests for access credentials for personnel from that agency,'' and that this ''approach would allow downstream sharing of information by the coordinator who would be best positioned to ensure that recipients have a 'need to know.' '' AT&T further argues that a ''similar procedure has worked well in the context of the 911 Reliability Certification System,'' and states that for that procedure, ''the potential information recipient sends a request to a designated FCC staff member to receive coordinator status and these requests are handled on case-by-case basis.'' No commenters oppose AT&T's recommendation.

93. We adopt AT&T's recommendation as we find that it would help facilitate the efficient administration of our framework and provide additional safeguards to protect NORS and DIRS data for the reasons it describes. Therefore, we will require participating agencies, in the Certification Form (Appendix C) we adopt today, to indicate the name and contact information of their agency coordinator. We will require this agency employee to serve as their agency's point of contact for all matters related to their agency's framework access, including managing agency accounts, submitting requests for additional user accounts, coordinating downstream sharing consistent with our rules, coordinating with the Commission to manage any unauthorized access incidents, and taking reasonable efforts to make available for Commission inspection a list of all localities for which the agency has disclosed NORS and DIRS data.

94. Several commenters recommend the implementation of auditing and reporting measures to minimize improper use. For example, ATIS recommends that ''the Commission require states to conduct an internal audit every six months . . . of individuals with access to determine whether these accounts are still necessary and to require personnel to regularly update passwords,'' and that ''the results of this audit should be shared with the Commission.'' CTIA recommends that the Commission ''develop a process for regularly

auditing accounts it has granted to public safety stakeholder agencies and sharing the results of this process with providers that file reports to NORS and DIRS.'' USTelecom proposes that the framework ''contain regular reports that provide a record of how many active accounts are maintained by each agency and the number of reports accessed by each,'' and that ''upon request, and in a reasonable time frame,'' the Commission ''provide reports to carriers listing which Federal or state government agency accounts have accessed their NORS or DIRS outage data.'' Moreover, NCTA recommends suspending ''individual user access if an individual has not accessed NORS or DIRS within a 12-month period.'' We reject all commenters' auditing and report production proposals as they would place undue obligations on the Commission and participating agencies and could be financially prohibitive. We further find that requiring the suspension of access to users that are inactive over 12 months is too prescriptive. For example, given the sporadic nature of disasters and emergency events, users at some participating agencies might not access NORS and DIRS filings for over a year.

95. Additionally, to increase account security, several parties make proposals that recommend the tracking of how users access NORS and DIRS filings. For instance, NTCA recommends requiring ''agencies accessing the filings to track the name of the authorized individual within the agency that accessed information and when.'' CTIA states that the ''Commission should ensure that adequate tools are available to aid investigations after data breaches,'' and opines that ''one such tool is an audit log for the NORS and DIRS database, recording which data was accessed, when, and by whom.'' NCTA recommends that ''reporting service providers should be able through online access to obtain information identifying both the agencies and the user accounts that accessed their information.'' We adopt CTIA's approach and will develop auditing capabilities into NORS and DIRS that track which reports specific users access and when they are accessed. We note that no commenters oppose this approach. We believe this will allow the Commission to maintain effective oversight as to how NORS and DIRS are used, including following an incident involving unauthorized access. We believe that this approach will be less burdensome on participating agencies than the approaches recommended by NTCA and NCTA, respectively. We acknowledge however the contentions of commenters who have argued that service providers should have access to these logs so that they can determine whether their data has been mishandled. We find that service providers have a legitimate interest in ensuring that their presumptively confidential data is handled appropriately even as we remain wary that service providers could use such information to burden participating agencies with queries based on the logs, particularly during times of exigency. Therefore, we delegate authority to PSHSB to consider written requests from service providers for access to audit logs regarding their own records on a case-by-case basis and to release requested information to the requesting service provider only if PSHSB determines that doing so would be in the public interest. A service provider's written request must explain the specific circumstances that the provider believes warrants its access to audit logs and identify, with particularity, the requested date ranges and entities covered by in the request.

5. Training Requirements

96. In the *Second Further Notice,* the Commission proposed that each individual granted a user account for direct access to NORS and DIRS filings be required to complete security training on the proper access, use of, and compliance with safeguards to protect these filings prior to being granted initial access, and that this training occur on an annual basis thereafter to make the framework more effective and reduce the risk of over-disclosure of NORS and DIRS information. Furthermore, the Commission sought comment on whether anyone who receives confidential NORS and DIRS information, including downstream recipients, be required to complete formal training. We adopt a proposed training requirement today, and note that an overwhelming number of commenters submit that some form of training is necessary for participating agencies to ensure the appropriate uses of NORS and DIRS data and minimize over-disclosure, and believe participating agencies should certify that they have undertaken security training consistent with the Commission's requirements. For example, the Public Service Commission of the District of Columbia opines that it ''agrees with the FCC and many commenters that training of authorized state agency staff about NORS and DIRS reporting is important to ensure proper treatment of NORS and DIRS information.'' The Competitive Carriers Association states that it ''supports the Commission's proposal to mandate annual security trainings to agency personnel accessing the data,'' and that ''considering the sensitive nature of NORS and DIRS data, regular security trainings will help ensure safeguards are adhered to and that information remains protected.''

97. We acknowledge that the Michigan Public Service Commission states that it ''does not support the proposal for annual training requirements as currently discussed in the FNPRM,'' as it contends that if ''there are to be annual certifications to access NORS and DIRS outage information, the MPSC believes that any required training should be free of charge to applicants and centrally located or made available online.'' The IACP also recommends that ''any required training be accessible on-line and be time limited to that which is necessary to cover the points required.'' As we decline to prescribe specific training or platforms that agencies must use to facilitate training, we respond to the Michigan Public Service Commission's concerns by noting that we expect that the implementation of our training requirements, as discussed below, will give agencies the opportunity to tailor training programs to their unique needs, including considerations of cost.

98. Furthermore, in the *Second Further Notice,* the Commission sought comment on whether anyone who receives confidential NORS and DIRS information, including downstream recipients, should be required to complete formal training. While we decline to adopt a formal training requirement for downstream recipients, we will require participating agencies to instruct downstream recipients to keep NORS and DIRS information they receive as confidential and obtain a certification from downstream entities that they will treat the information as confidential.

99. We note that commenters are divided on this issue. For example, while the Pennsylvania Public Utilities Commission and the Satellite Industry Association maintain that downstream training should be required to ensure that downstream recipients understand the consequences of downstream sharing and to reduce the risk of the mishandling of NORS and DIRS information. NASNA and the Colorado Public Utilities Commission disagree. For example, the Colorado Public Utilities Commission states that ''there are potentially hundreds of individual agencies throughout the state that may have a ''need to know'' during a disaster

or large-scale emergency, and requiring each of those agencies to have individuals undertake a multi-hour training prior to receiving the information is unreasonable,'' and further argues that it ''would also be unduly burdensome for the participating state agency to keep track of who has had training, who hasn't, and whether annual refresher training has been maintained.'' As an alternative to downstream training, the Colorado Public Utilities Commission and NASNA suggest that a participating agency ''be allowed to develop an affidavit to be signed by subrecipients prior to the receipt of confidential information, acknowledging that they understand that un-anonymized data is confidential and that it is not to be shared.''

100. We are persuaded by NASNA and the Colorado Public Utilities Commission's assertion that a downstream training requirement would be unreasonable, given the potentially hundreds of downstream entities that might receive information through the framework. However, we find that providing downstream access with insufficient safeguards could amplify the possibility of unauthorized disclosure, particularly because downstream entities will have less experience with protecting NORS and DIRS data than participating agencies. Therefore, we also agree with NASNA and the Colorado Public Utilities Commission's alternative approach.

101. We will require participating agencies sharing data with entities that have a ''need to know'' to instruct these entities that they must treat the information as confidential, not disclose it absent a finding by the Commission that allows it to do so, report any unauthorized access, and securely destroy the information when the public safety event that warrants its access to the information has concluded. We delegate authority to PSHSB to develop a certification for use by participating agencies. Furthermore, as we explain *infra,* we will hold participating agencies responsible for inappropriate disclosures of NORS and DIRS information by the non-participating agencies with which they share it. We will also require participating agencies to obtain non-participating agencies' certification, under the penalty of perjury, that they will abide by these restrictions.

102. We note that NTCA ''encourages the Commission to adopt rules requiring any local, state or Federal personnel with access to NORS and DIRS filings sign a certification attesting they have undertaken security training consistent with the Commission's recommendation . . . and will access and use the information only for the public safety purposes for which it is intended.'' We find that our downstream training requirements that we adopt today, along with the required Certification Form we discuss *infra,* provides for adequate training of personnel, enables us to obtain appropriate acknowledgment from agencies regarding their efforts to train employees on the appropriate uses of NORS and DIRS information. Consistent with NCTA's proposal, the Certification Form as described *infra* will require participating agencies granted access to certify that they have completed security training and will use NORS and DIRS information for public safety purposes only. However, we decline to adopt this requirement for local personnel through the Certification Form as we are not requiring training for downstream entities granted access to NORS and DIRS information by participating agencies, and we will require participating agencies to obtain a separate certification from these entities regarding the appropriate use of NORS and DIRS information as described above.

103. *Agency Compliance with Training Requirements.* In the *Second Further Notice,* the Commission sought comment on requiring third-party audits to ''ensure that state and Federal agencies' training programs comply with the Commission's proposed required program elements'' and asked ''what specific steps should the Commission take, if any, to ensure the adequacy of such programs.'' ATIS ''urges the Commission to consider reviewing and formally approving all training programs to ensure that they are effective and address all relevant issues.'' NASNA and the Colorado Public Utilities Commission believe that in lieu of requiring third-party audits of partner training programs, participating agencies should provide a copy of their training curriculum to the FCC. For example, NASNA states that if ''the FCC requires reassurance that participating agencies are meeting training requirements, those agencies could be required to provide a copy of its training curriculum to the FCC and attest that all employees within the agency are required to complete the training prior to applying for an account,'' and that the ''same requirement could exist for the annual refresher training requirement.''

104. We adopt a requirement, consistent with NASNA and the Colorado Public Utilities Commission's proposal, to require participating agencies to make copies of their training curriculum available for the Commission's review upon request. We are persuaded that is approach will be the most effective way for the Commission to confirm the adequacy of state and Federal training programs, and mandate remediation as necessary, without burdening participating agencies with a requirement to procure third-party audits. We will not require advance review and approval of agencies' training materials by the Commission, as we find that doing so would be administratively burdensome to the Commission and prevent efficient access to NORS and DIRS information. We also find that requiring advance review is unnecessary, as we believe that requiring agencies to certify to the adequacy of their training programs, as discussed *infra,* is sufficient to ensure that the plans' adequacy.

105. *Training Program Required Elements and Exemplars.* In the *Second Further Notice,* the Commission proposed that rather than mandating an agency's use of a specific training program, agencies ''develop their own training program or rely on an outside training program that covers, at a minimum, specific topics or ''program elements. These program elements are: ''(i) Procedures and requirements for accessing NORS and DIRS filings; (ii) parameters by which agency employees may share confidential and aggregated NORS and DIRS information; (iii) initial and continuing requirements to receive trainings; (iv) notification that failure to abide by the required program elements will result in personal or agency termination of access to NORS and DIRS filings and liability to service providers and third-parties under applicable state and Federal law; and (v) notification to the Commission, at its designated email address, concerning any questions, concerns, account management issues, reporting any known or reasonably suspected breach of protocol and, if needed, requesting service providers' contact information upon learning of a known or reasonably suspected breach.'' Additionally, the Commission proposed ''that [it] direct PSHSB to identify one or more exemplar training programs which would satisfy the required program elements.'' We adopt these proposals today with slight modifications as we continue to find that they are critical to ensuring participating agencies' comprehensive understanding of our information sharing framework. Specifically, we adopt a requirement that participating agencies' training programs must cover the five program elements that the Commission identified in the *Second Further Notice;* we enable agencies to

develop their own training program or rely on an outside training program that includes these program elements; and delegate authority to PSHSB the duty to consult with diverse stakeholders to identify an exemplar training program or develop exemplar training materials that include these program elements.

106. We observe that ATIS, the only commenter specifically addressing the proposed training program's required elements, supports those elements. Moreover, some commenters underscore their belief that to help facilitate uniformity of training materials and reduce burdens on participating agencies, the Commission should identify exemplar training programs that participating agencies can use in their efforts to train staff on the proper uses of NORS and DIRS filings.

107. The *Second Further Notice* also sought comment on ''the benefits and drawbacks to the Commission potentially working with one or more external partners, such as ATIS, to develop exemplar training programs.'' ATIS states that it would ''be happy to assist with development of a training program,'' and would ''work collaboratively with other associations so that this training would be completed within a reasonable time after the release of the final rules.'' The Boulder Regional Emergency Telephone Service Authority urges ''the Commission to decline the ATIS's offer to develop training which ATIS proposes to focus solely on limitations on use of the materials and penalties for misuse,'' because it believes that ''training should'' ''focus on interpretation and utility of data.'' Verizon states that training for the confidentiality requirements it recommends ''would be appropriate, in coordination with Commission staff, ATIS and public safety stakeholders.'' Verizon also states that the framework safeguards it supports in its comments ''should be another subject of the workshops it recommends.''

108. We find that many stakeholders, including ATIS, possess significant technical and operational expertise that could benefit the Commission in the development of exemplar training. Thus, to identify an exemplar training program or develop exemplar training materials, the Commission delegates authority to PSHSB to consult with diverse stakeholders with a range of perspectives, including state governments, the public safety community, service providers, and other industry representatives. We find that this approach will foster a collaborative process to ensure training materials reflect the needs of all information sharing framework participants. We note that ATIS also recommends that the training specifically provide guidance on six specific guidance topics. These topics are ''(1) The purpose of NORS and DIRS; (2) Appropriate use of confidential and aggregated data; (3) Who would be deemed to have a ''need to know;'' (4) What would qualify as a public safety purpose; (5) Proper distribution and use of printouts, including a requirement that users not delete the notification proposed by ATIS informing readers that the information in the document may be shared only with authorized users with a ''need to know,'' only for public safety purposes, etc.; and (6) The requirement that, should there be a known or suspect breach as noted above, the party whose data was breached must be immediately notified.'' We decline to adopt these recommendations at this time but note that ATIS has the opportunity to recommend these specific guidance topics if it works with the Commission and other stakeholders to develop exemplar training materials.

109. Some commenters also suggest the Commission convene stakeholder workshops, or facilitate other collaborative measures, before initiating the sharing framework to further develop data sharing protocol and other features of the framework as necessary. For instance, Verizon contends that ''to ensure that any new rules are implemented collaboratively among the service providers and government agencies involved, the Commission should convene stakeholder workshops in the months preceding adoption of final rules.'' Several other commenters support workshops' proposals. According to Verizon, these workshops could allow stakeholders to, in part, ''work through IT implementation challenges to ensure compatibility with providers' and state agencies systems,'' ''establish practices and guidance for permissible uses and sharing of information with employees and local government stakeholders,'' and ''help educate state and local governments on the information *not* included in NORS and DIRS reports, and on how service providers obtain information to include in the reports.'' Verizon further opines that to establish practices for downstream sharing and use of information, the Commission could initiate ''workshops of its own'' and encourage ''other collaborative discussions involving industry and public safety trade associations and standards groups,'' and incorporate ''those practices into training.'' CTIA also argues that ''the Commission should convene a broad group of subject matter experts to identify processes to protect data confidentiality while advancing outage information sharing with public safety stakeholders.'' Furthermore, AT&T recommends that ''before initiating agency and public disclosures, the Commission should give providers and government agencies the opportunity to review an example of the information to be made available through this process,'' and states that ''[i]t would be useful for the providers that submit information to NORS/DIRS to see a mock-up format, any template, and online access tools to be used so that they have an opportunity to raise any concerns and recommend changes.'' AT&T also states that ''[s]imilarly, feedback from government agencies would ensure that the Commission's final framework provides the state-specific information sought by these parties, while potentially minimizing multiple operationally redundant reporting regimes across providers' service footprints,'' and ''[s]uch a collaborative process is most likely to achieve the Commission's dual purposes of giving government agencies useful information while also preserving confidentiality of sensitive data.

110. We find that workshops are not an appropriate venue to develop requirements for our framework as the open record has provided all interested parties with an opportunity to comment on our, and other parties', proposals in this proceeding. Thus, we reject all recommendations that workshops be used, in any way, to develop our framework rules, including rules regarding downstream and inter-jurisdictional sharing. We further reject AT&T's proposal to enable providers and participating agencies to review and provide feedback on information to be made available through the framework before its initiation. We expect that the exemplar training materials supplied to agencies, which will be developed with the input of diverse stakeholders, will provide information to help guide agencies on the proper ways to access and use NORS and DIRS information, which they can choose to integrate into any training materials they develop. However, we delegate authority to PSHSB to host one or more workshops before the effective date of the framework to educate stakeholders about NORS and DIRS filings generally and the requirements we adopt today, including our rules regarding the appropriate uses of NORS and DIRS data, training measures, and aspects of IT implementation of the framework.

6. Sharing of Confidential NORS and DIRS Information

111. *Responsibilities of Participating Agencies.* In the *Second Further Notice,* the Commission proposed to allow individuals granted credentials for direct access to NORS and DIRS filings to share copies of the filings, in whole or part, and any confidential information derived from the filings within their agency, on a strict ''need to know'' basis. We adopt this proposal.

112. Commenters generally support allowing individuals with direct access credentials at a participating agency to share confidential NORS and DIRS information with individuals within their agencies on a ''need to know'' basis. We agree with the Pennsylvania Public Utility Commission that this mechanism is especially important given the many individuals involved in coordinating emergency response, many of whom will not be credentialed for access, and we agree with T-Mobile that it is prudent to ensure that non-participating agency officials are able to receive NORS and DIRS information to steer their agency in improving public safety outcomes. Moreover, we find the proposed approach to be a practical way to enable the individuals who are credentialed to login to our databases and thereby access NORS and DIRS filings to convey this filed information to their agency's decision makers. We find significant public safety benefits in ensuring that all ''need to know'' individuals at any agency, including key executives, decision-makers and potentially first responders, have access to NORS and DIRS information and we find this will allow an agency to make collectively informed decisions on how to use the information, ultimately lowering rather than increasing the chance of misuse of the information.

113. We reject CTIA's contrasting view that restricting access to credentialed users at an agency is a necessary safeguard for encouraging service providers to provide robust disclosures of relevant information in their NORS and DIRS filings. To the contrary, we find that if credentialed users could not coordinate with non-credentialed decision-making officials and other expert agency personnel on the substance of NORS and DIRS reports, this would likely lead to more instances of impermissible use and improper disclosure (and worse public safety outcomes), rather than fewer instances. For example, if a credentialed user cannot share NORS and DIRS information with specialized emergency management experts within their own agency, they would potentially use the information to make recommendations on public safety matters that they are not qualified to make. If a credentialed user cannot share NORS and DIRS information with agency decision-makers, they would potentially make decisions on allocating resources in response to a public safety threat that they would not have the authority to make. We find that the risks of improper disclosure would increase as credentialed users would be forced to work outside of their agency's normal chain of command in acting on confidential NORS and DIRS information. We believe that service providers will recognize that this observation, along the many safeguards implemented today, provide assurances the presumptively confidential NORS and DIRS filings the supply to the Commission will continue to be protected, and we believe that service providers will remain motivated in supplying robust NORS and DIRS filings to resolve network reliability and outage issues, as they have historically done. We note that service providers are required to submit NORS reports that meet all the requirements of our part 4 rules. While DIRS reporting is voluntary, our experience with DIRS activations provides us with the insight that providers are likely to provide complete DIRS reports in order to take advantage of the Commission's waiver of the NORS reporting obligations in those regions where DIRS has been activated.

114. We are also unpersuaded by NCTA's concern that ''increasing the number of people who have access to the data inherently increases the risk of breach or accidental disclosure'' because this conceptual possibility of an increased risk is outweighed by the harms that arise from disallowing intra-agency sharing, which would make it less likely that an agency's staff and leadership will use NORS and DIRS information to take action, thereby frustrating the purposes of the information sharing framework we adopt today.

115. Based on concerns of commenters, we bar the sharing of confidential NORS and DIRS information with contractors. While we recognize that an agency's contractors can engage in public safety functions in times of crises, we find that sharing with contractors should be barred given the potential for conflicts of interest among contractors, who may work on behalf of service providers as well as public safety agencies. As no commenter has identified how NORS and DIRS information can be shared in ways that would appropriately address these potential conflicts of interest, we decline to make this information available to contractors.

116. With respect to a participating agency's sharing of reports with downstream entities (described *infra*), in the *Second Further Notice,* the Commission proposed that the sharing agency determine whether a ''need to know'' exists on the part of the recipient. We adopt this proposal, which most commenters support without significant comment. With regard to potential costs burdens, we reiterate that participating agencies are not required to share NORS and DIRS information but instead are permitting to do so. As previously noted in the *Second Further Notice,* we find that this approach is appropriate because the sharing agency is in a strong position, particularly in comparison to the Commission, to make this determination based on its ''on the ground'' knowledge of the public safety-related activities, and trustworthiness, of the downstream entities with which it elects to share, *e.g.,* based on its prior interactions with such agencies.

117. We reject ATIS's view that we should ''not leave it entirely in the hands of state agencies to determine whether a local agency has a 'need to know' '' as ATIS believes this could result in misuse or unauthorized access to the information. ATIS suggests a scheme where agencies with direct access to NORS and DIRS would inform the Commission of whom they may plan to share information with in advance of a public safety event and we would then use this information to seek input from filers, including objections, prior to any information sharing. We find that the public safety benefits of our adopted approach outweigh ATIS's concerns of misuse or improper access to NORS and DIRS information. Our adopted approach ensures that decisions on how to best resolve public safety problems are in the hands of those closest to the issues (*i.e.,* participating agencies). Requiring the Commission receive notifications and solicit comments from filers, as ATIS favors, creates delays in decision making that would make NORS and DIRS information significantly less useful to participating agencies in the context of exigencies. We instead agree with Colorado Public Utilities Commission that participating agencies can make this decision more effectively and quickly given their familiarity with on the ground facts. Moreover, we find that the many safeguards that we have imposed on downstream sharing today to be directly responsive to ATIS's concerns as we believe they are sufficient to protect these sensitive

filings from misuse and unauthorized access.

118. We also reject ATIS's view that we should require that participating agencies make advance arrangements with agencies they choose to share downstream with (and that the Commission be notified of the existence of these arrangements) prior to dealing with an on-going public safety event. We are instead persuaded by the International Association of Chiefs of Police's remark that these requirements would present a ''barrier to access'' as they would consume additional resources that agencies often do not have. We decline to require that a participating agency make advance arrangements, or share at all, with other entities in light of the burden concerns expressed in the record. We find, however, that advance arrangements would likely reduce long term burdens on all parties. We therefore encourage, but do not require, participating agencies to make advance arrangements where they deem it practical and in the interests of public safety to do so.

119. We reject the views of the International Association of Chiefs of Police that we go further and require that participating agencies share information with local police agencies having a ''need to know.'' While we share the view that police agencies play a vital role in resolving many public safety issues, we decline to require participating agencies share confidential NORS and DIRS information with police agencies or any other local entity. We find that requiring Federal, state, territory, and Tribal Nation agencies to share information with other entities is incompatible with our decision today to hold the participating agency accountable for the way information is used by those entities. To maintain the reasonableness of this accountability measure, we find it critical that participating agencies be able to evaluate and select the entities (if any) with which they share information. As a practical matter, however, we expect that participating agencies will, in many cases, voluntarily share information with police agencies when a ''need to know'' exists.

120. We also reject the views of NCTA and other commenters that a participating agency should not be allowed to share directly with others outside the agency on grounds that this would risk over-disclosure. As noted above, we place safeguards on such direct sharing that will minimize the risk of unauthorized disclosure, which we find strikes an appropriate balance between disseminating NORS and DIRS information to those who can act on it, thereby savings lives and property, and protecting the sensitive nature of these filings. We also reject ACA Connects' view that the ''need to know'' of a recipient must be determined in advance of any sharing event (as opposed to in real-time during the event). We find that this provision would likely create significant and impractical delays in the transfer of critical information to non-participating agencies, particularly during times of severe exigency, and we find that the many safeguards that we've introduced on direct sharing today appropriately balance disseminating NORS and DIRS information with protecting the sensitive nature of these filings.

121. In the *Second Further Notice,* the Commission proposed to allow individuals granted credentials for direct access to NORS and DIRS filings to share copies of particular filings, in whole or part, and any confidential information derived from the filings outside their agency on a strict ''need to know' '' basis. We adopt this proposal and clarify that not only must there be a ''need to know'' for downstream sharing, but that need must pertain to a specific imminent or on-going public safety event.

122. Many state, local and industry commenters support allowing credentialed individuals at a participating agency to directly share confidential NORS and DIRS information with others outside their agency, including individuals working for local entities, on a ''need to know'' basis. We agree with Verizon and the City of New York that, while state agencies are a good initial dissemination point, effectively addressing public safety requires collaboration between state agencies and local entities (among others). We also agree with the Public Service Commission of the District of Columbia that this proposal will ''assist in developing a coordinated response to a disaster or other major outage,'' and with the Pennsylvania Public Utility Commission, which supports this proposal as necessary to ensure that information can be disseminated from participating agencies to county emergency agencies, as they are often ''the key decision-makers and first responders'' who need this information given their ''vital role . . . in ensuring public safety during times of crisis.'' We find that the proposed approach would provide a targeted and efficient way to put relevant information in the hands of local entities while minimizing the risk of over disclosure of confidential NORS and DIRS information. We also find that the proposed approach would be an effective way to ensure that PSAPs and 911 authorities that do not qualify as participating agencies can obtain relevant NORS and DIRS information.

123. We clarify, however, that not only must there be a ''need to know'' for downstream sharing, but that it must pertain to a specific imminent or on-going public safety event. Thus, in contrast with today's restrictions on sharing within a participating agency, we exclude a participating agency from sharing confidential information downstream when a potential recipient is seeking to use the information to identify trends and perform analyses related to long-term improvements in public safety outcomes. Many commenters express concerns that downstream sharing raises additional risks and would thus appear to support today's decision to further restrict the conditions on which it is permitted. We agree with commenters there is generally less accountability and an increased risk of over-disclosure when NORS and DIRS information is shared outside of those participating agencies that have been granted direct access. We similarly agree with ATIS and T-Mobile that the risks of improper use are heightened since outside recipients are not directly accountable to the Commission through our Certification Form (Appendix C). We find that these observations justify our further restriction on a ''need to know'' in the context of downstream sharing. Moreover, without this restriction in place, a participating agency could simply share all (or vast amounts) of NORS and DIRS filings with a non-participating agency on grounds of a general ''need to know,'' which would frustrate our decision to limit direct access to the many filings housed in our NORS and DIRS databases to participating agencies only.

124. *Responsibilities of Non-Participating Agencies.* The Commission proposed in the *Second Further Notice* to require that non-participating agencies that seek NORS and DIRS information first provide certification, to the supplying participating agency, that they will treat the information as confidential, not publicly disclose it absent a finding by the Commission that allows them to do so, and securely destroy the information when the public safety event that warrants its access to the information has concluded. We adopt this proposal while also requiring that non-participating agencies certify that they have completed security training using participating agencies' training materials before being granted access to NORS and DIRS filings and clarifying the meaning of ''secure'' destruction.

125. Some commenters, including state utility commissions that would incur much of the burden associated with these proposals, agree with the Commission's approach and find it workable. We agree with the Pennsylvania Public Utility Commission that requiring a non-participating agency's agreement to treat filings as confidential will help maintain NORS and DIRS filers' trust in the confidentiality of submitted information and ensure the continued success of our NORS and especially voluntary DIRS programs. We also agree with both the Colorado Public Utilities Commission and NASNA that each of these requirements is workable and can be implemented in practice even if they do impose some burden.

126. Moreover, while no commenter questioned what ''secure'' destruction would entail, we find that clarifying this term will simplify implementation of this program for non-participating agencies that are required to securely destroy information according to its terms. We clarify that the secure destruction of confidential NORS and DIRS information requires, at a minimum, securely cross-cut shredding, or machine-disintegrating, paper copies of the information, and irrevocably clearing and purging digital copies, when the public safety event that warrants access to the information has concluded.

127. We reject the Colorado Public Utilities Commission's view that a non-participating agency has a need to keep ''descriptions'' related to NORS and DIRS information in their possession to the extent it would violate our requirement for the secure destruction of the confidential NORS and DIRS information after the conclusion of a public safety event. We agree with Telecommunications Regulatory Bureau of Puerto Rico's representation from its own practice, that such reports can (and should) be ''general in nature'' and not reflect confidential NORS and DIRS information. We find that to allow a non-participating agency to keep more granular information on file is outweighed by the need to restrict the dissemination of sensitive NORS and DIRS information.

128. As noted above, we will require downstream agencies to certify that they have completed security training using participating agencies' training materials before being granted access to NORS and DIRS filings. We find that providing downstream access without any safeguards could amplify the possibility of unauthorized disclosure, particularly because downstream entities will have less experience with protecting NORS and DIRS data than participating agencies.

129. *Further downstream sharing.* In the *Second Further Notice,* the Commission proposed that the sharing of confidential NORS and DIRS information be allowed further downstream as well. According to this proposal, once an agency with direct NORS and DIRS access shared confidential NORS and DIRS information with a recipient, that recipient could further summarize and/or share the information with others that also had a ''need to know.'' Based on the record before us, we decline to adopt this proposal.

130. We find that the further downstream sharing proposal implicates several legitimate concerns around the ability to safeguard the confidentiality of the information and foster accountability among individuals and entities that would receive information. We agree with ACA Connects that the proposed approach would have made it hard to control the flow of information and maintain accountability when improper disclosure occurred. We agree with ATIS and T-Mobile that the risks of improper use would be heightened if sharing were extended to those further downstream, *i.e.,* to those not closely associated with agencies subject to our accountability measures, including as signatories to our Certification Form (Appendix C). Moreover, while some commenters suggest that these issues could be addressed through the imposition of additional safeguards, such as instituting a Commission ''coordinator'' (who would be responsible for releasing the information that is to be shared downstream and ensuring that recipients indeed have a ''need to know'') and allowing public comment on a proposed disclosure-by-disclosure basis. We reject these views as we find the proposed additional safeguards to be highly burdensome since, by adding delay to decision making, they would significantly diminish the value of the associated NORS and DIRS information in the context of exigencies.

131. We reject the views of some local entities that believe that the further downstream sharing proposal would be workable as-is. We reject these views in the context of further downstream sharing. As noted by the industry commenters, the Commission's further downstream sharing proposal would require responsible practices not just by participating agencies and those that are one ''hop'' removed from these agencies, but from a larger set of entities potentially many hops removed from the participating agency and generally not approved or cleared by the participating agency (or the Commission) in advance. We find that these public safety risks heighten, as do the difficulties of identifying the source of impermissible disclosure as information continues to be shared downstream with additional parties. Even if each individual entity taken alone has strong incentives to protect NORS and DIRS information, as Boulder Regional Emergency Telephone Service Authority contends, the risk of improper disclosure increases as a larger number of entities gains access to the information. To minimize that risk at the launch of today's new information sharing framework, we find that it is prudent to allow participating agencies to share NORS and DIRS confidential information under the conditions established in this order but not to allow further downstream sharing.

132. *Penalties and Remedies.* The Commission proposed in the *Second Further Notice* to hold participating agencies responsible for inappropriate disclosures of NORS and DIRS information by the non-participating agencies with which they share it and noted that consequences for improper disclosures by a participating agency or non-participating agency (with which the participating agency shares information) could result in termination of access to NORS and DIRS data for the participating agency. We adopt this proposal. We find that the risk of losing access is a necessary safeguard that will incentivize participating agencies to make judicious selections up-front on with whom they share NORS and DIRS information, if anyone.

133. In doing so, we reject the views of some commenters that believe that it would be unfair and a disservice to terminate a participating agency's access to NORS and DIRS information because of the potential bad actions of a non-participating entity which it cannot directly control. To further address the concerns in the record, however, we confirm that in any decision to terminate access, and set a length of time that the termination is effective, the Commission will consider the totality of the circumstances, including the reasonableness of the participating entity's decision to share information with a non-participating agency, the severity of the misuse of shared information, and the implementation of other appropriate safeguards by the implicated participating agency.

134. To address concerns of record, to the extent that a participating agency is unclear on whether specific downstream individuals or entities have a ''need to know,'' despite the clarity we

have provided on the scope of the term in today's Order, we encourage (but do not require) the agency to contact the Commission at *NORS_DIRS_information_sharing@fcc.gov* to discuss its potential sharing with the individuals and entities well in advance of a relevant public safety event.

135. We reject NASNA's suggestion that when a participating agency's direct access is terminated by the Commission, it be terminated for exactly three years, as we find this to be an unnecessarily rigid approach. We agree with Colorado Public Utilities Commission and Montrose Emergency Telephone Service Authority that a decision to terminate access need not be permanent.

136. We encourage participating agencies to proactively monitor and terminate access to non-participating agencies when they find such action warranted, but we reject Colorado Public Utilities Commission's view that the Commission should defer to participating agencies on termination decisions. The Commission has a strong incentive to safeguard all NORS and DIRS information that it receives to ensure that providers provide detailed reports on a nationwide basis.

137. The Commission will provide its remediation decisions, including its reasoning and actions to be taken to hold the participating agency accountable in a letter to the agency's coordinator, which may also be released on the Commission's website. If the Commission terminates an agency's access, the Commission will specify in the letter the time duration of this penalty as well as any conditions that must be met prior to reinstatement of access.

G. Procedures for Requesting Direct Access to NORS and DIRS

138. In the *Second Further Notice,* the Commission proposed requiring eligible state, Tribal Nation and Federal agencies to apply for direct access to NORS and DIRS filings by sending a request to the Commission's designated email address and completing a Certification Form. The request would include: (i) A signed statement from an agency official, on the agency's official letterhead, including the official's full contact information and formally requesting access to NORS and DIRS filings; (ii) a description of why the agency has a need to access NORS and DIRS filings and how it intends to use the information in practice; (iii) if applicable, a request to exceed the proposed presumptive limits on the number of individuals (*i.e.,* user accounts) permitted to access NORS and DIRS filings with an explanation of why this is necessary and (iv) a completed copy of a Certification Form, a template of which is provided in this item as Appendix C.'' On receipt, the Commission would review the request, follow-up with the agency official with any potential questions or issues. Once the Commission has reviewed the application and confirmed the application requirements are satisfied, the Commission would grant NORS and DIRS access to the agency by issuing the agency NORS and DIRS user accounts. We adopt these application procedures today, subject to the modification we have discussed above to require applying agencies to identify legal authority that charges them with promoting the protection of life or property. We find that, generally, commenters opining on the proposed procedures for requesting NORS and DIRS access raise no concerns with them. For example, the Competitive Carriers Association opines that the ''FNPRM's proposed procedures for requesting data would help to ensure data is accessed on a limited, as-needed basis.'' NASNA notes the *Second Further Notice's* proposed ''procedure for potential participating agencies to apply for direct access to NORS and DIRS data,'' and states that it ''has no objections to the procedure outlined.''

139. Other commenters urge additional modifications to the proposed procedures, which we reject. For example, ACA Connects urges the Commission ''to require agencies as part of their application to explain precisely the public safety need that justifies access to NORS or DIRS data, and to grant such access only to that extent necessary to meet that need,'' and also argues that ''a participating agency should be required to submit to the Commission the names of all individuals with whom it will share the data, along with an explanation why each individual ''needs to know'' the information.'' We decline to adopt this proposal as we expect our application requirement that legal authority be identified and certified to by agencies will address the issue of public safety need and find that requiring agencies to submit the names of all individuals with whom it will share data is inflexible and disregards that agencies might not know the full extent of individuals it will provide access to at the time of application. Furthermore, we note that Verizon suggests that applications ''could include point of contact information for localities seeking access to information in the reports.'' We also reject this recommendation as our application process is focused on reviewing the eligibility of agencies under the sharing framework and ensuring that they will adhere to the framework's safeguards and we defer to participating agencies to determine whether and how they want to establish a point of contact for requests by local agencies.

140. Moreover, some commenters propose that the Commission notify service providers when a particular agency applies for access to allow the provider to raise any concerns. For example, Verizon argues that ''if service providers have concern for the confidentiality protections available in a particular state or have other issues appropriate for the Commission's consideration, such notification would give the service provider an opportunity to raise those concerns.'' We find that, if implemented, this approach could lead to protracted disputes between service providers and participating agencies and impede efficient access to NORS and DIRS information. While Verizon does not indicate what ''other issues'' could be raised for the Commission's consideration through a notification process in its comments, the Commission expects that its objective application process and its safeguards for protecting the confidentiality of NORS and DIRS data will help prevent improper use and disclosure.

141. Furthermore, we find that eligible agencies, which have public safety duties, are unlikely to release sensitive information in ways that undermine national security or other public safety purposes. These agencies are also not in competition with service providers, and thus lack anticompetitive motives to use the information improperly. Moreover, we find that potentially contesting an agency's eligibility under our framework could detract from service provider and public safety resources that should be more immediately directed to using NORS and DIRS information to improve public safety. However, we encourage service providers to inform the Commission about any laws that would prevent any eligible agencies in a jurisdiction from maintaining the confidentiality of NORS and DIRS information, as well as any specific concerns regarding participating agencies that may be improperly accessing, using, or disclosing NORS and DIRS information.

142. Although we will not notify providers when an agency requests access to NORS and DIRS information for the aforementioned reasons, we find that providers should be kept apprised of the entities granted direct access to NORS and DIRS filings to track the use of network outage data. Therefore, we

will develop a general list of participating agencies granted access to filings under our information sharing framework that will made available to relevant service providers. This list will be updated on a periodic basis. We delegate authority to PSHSB to develop, update, and make available this list.

143. *Certification Form.* In the *Second Further Notice,* the Commission proposed the adoption of a Certification Form ''to address the certifications and acknowledgments required for direct access to NORS and DIRS filings,'' and sought comment on the various elements and requirements of the Certification Form. Based on our review of the record, we adopt the proposed Certification Form today, with slight modifications we discuss below, as we expect that it will provide for adequate acknowledgment of the confidential nature of the NORS and DIRS filings and help protect against the unauthorized use of NORS and DIRS information. We note that several commenters support the proposed Certification Form.

144. Many commenters offer various proposals for modifications intended to strengthen the safeguarding of NORS and DIRS information by requiring notice of data breaches to the Commission and service providers. We agree with commenters that it will further public safety to require participating agencies to certify that they will immediately notify the Commission and affected service providers of data breaches or the unauthorized or improper disclosure of NORS/DIRS data. CenturyLink also comments that ''State and local agencies should be required to immediately report to the service provider and the FCC any unauthorized or improper disclosure of NORS/DIRS data.'' ACA Connects further states that ''the Commission should require participating agencies to notify the Commission and affected communications providers in the event of a data breach, and should set forth appropriate penalties, including revocation of the agreement, for an agency that fails to protect or misuses the data,'' and that [a]t minimum, an agency that demonstrates a pattern of misuse or improper disclosure of NORS or DIRS data should be cut off from any further access.'' We find that in addition to enabling service providers to minimize the negative effects of improper disclosure, this modification to the Certification Form would allow the Commission to quickly identify misuse of NORS and DIRS information, further investigate violations of information sharing rules, and, if necessary, restrict continued access by offending participating agencies. NCTA also argues that ''as AT&T has previously suggested, after any improper access to or use of NORS or DIRS data by an employee, the Qualifying Governmental Agency should agree ''to perform an investigation of that employee and report the results of its investigation to the Commission and, possibly, to law enforcement.'' As we expect that the approach we adopt today will enable the Commission to coordinate the swift investigation of potentially improper uses of NORS and DIRS data, which could include investigation of personnel at participating agencies, we decline to adopt this proposal.

145. Other commenters make additional Certification Form proposals intended to ensure confidentiality and the proper use of NORS and DIRS filings, which we reject. We decline to adopt NCTA's recommendation that the Commission require participating agencies ''to certify that NORS and DIRS filings will not be accessed by individuals who are not designated employees,'' or are no longer employed by the agency. We note that non-participating agencies that receive NORS and DIRS information from participating agencies will be required to complete a certification that they will treat the information as confidential. We also expect that the training and safeguard requirements we adopt today will be sufficient to prevent unauthorized access to filings. We further find that the addition of this provision could be confusing as we note that pursuant to the rules we adopt today, participating agencies can share copies of NORS and DIRS filings, within or outside their participating agency. NCTA also recommends that a participating agency certify that, among other things, it will only use NORS and DIRS information for public safety responsibilities. ATIS also urges that the Certification Form be modified to ''specifically require agencies to certify that they have ''need to know'' this information and that they agree to use this information only for public safety purposes.'' CenturyLink also agrees with NCTA that ''a certifying agency should also describe ''how it intends to use the information in practice.'' We further find that the limitations on NORS and DIRS data described in the Certification Form—which requires agencies to certify that they will comply with the restrictions we adopt today—and our application procedures—including procedures that require agencies to identify the legal authority that charges them with public safety responsibilities—as adopted adequately address the remaining issues referenced in NCTA and other commenter's proposals.

146. In addition to these arguments, some commenters urge the Commission to adopt a certification process similar to the process the Commission has implemented to grant state access to North American Numbering Plan data, require state agencies to certify that they have adequate confidentiality protections in place, or describe the safeguards they have implemented to protect NORS and DIRS data. We reject all proposals regarding these issues to the extent that they differ from the provisions in the Certification Form we adopt today. We note that the proposed Certification Form was modeled after the certification that we require for access to North American Numbering Plan data, but enhanced to protect NORS and DIRS information, which if mishandled, implicates national security and competitive sensitivity concerns. For example, the Certification Form requires agencies to certify and acknowledge that NORS and DIRS filings are sensitive and presumed confidential for national security and commercial competitiveness reasons and report any suspected breaches to the Commission immediately.

147. In addition, we will require agencies to certify that they have implemented practical data protection safeguards including assigning user accounts to single employees, promptly reassigning user accounts to reflect changes as their rosters of designated employees change, and periodically changing user account passwords to ensure that user account credentials are not used by individuals who are not the agency's designated employees. Furthermore, the requirements we adopt today will obligate participating agencies to implement effective confidentiality safeguards regardless of the level of safeguards that exist in their states. For example, we require all participating agencies to certify that they will ''treat NORS and DIRS filings and information in accordance with procedural and substantive protections that are equivalent to or greater than those afforded under Federal confidentiality statutes and rules, including but not limited to the Federal Freedom of Information Act,'' and to ''the extent that Federal confidentiality statutes and rules impose a higher standard of confidentiality than applicable state law or regulations provide,'' the agencies must certify that they will ''adhere to the higher Federal standard.''

148. Commenters also make proposals intended to ensure the Certification Form clarifies the limitations of NORS and DIRS filings and the scope of entities eligible to receive them. For example, Verizon proposes that the Certification Form state that the recipient of filings ''further acknowledges that information reported in DIRS and NORS filings is subject to revision and correction by the reporting service provider.'' However, we find that the proposed Certification Form accounts for potential errors and inaccuracies in NORS and DIRS filings by requiring participating agencies to ''acknowledge that the Commission does not guarantee the accuracy of either the NORS or DIRS filings.'' We note that providers can share revised and corrected filings with us, which we will in turn make available to participating agencies granted access to the framework. Additionally, ATIS proposes that the Certification Form be modified to ''avoid confusion by clarifying in the opening paragraph that state agencies may get access only to reports for that state and cannot request nationwide filings.'' ATIS states that ''one way to achieve this would be replace the bracketed language with ''[for state agencies, name of states; for Federal agencies, name of states or nationwide].'' '' We agree with ATIS that we should revise the Certification Form to clarify the scope of entities that we intend to provide with access to our framework. Therefore, we add bracketed language to the Certification Form to indicate that states, the District of Columbia, Tribal Nations, and U.S. territories may be granted access only for reports of outages connected to their jurisdictions consistent with our rules.

149. We note that in addition to the Certification Form revisions we describe above, and consistent with the requirements we adopt today, we add an additional provision to the form to require the designated agency contact for each participating agency to serve as the coordinating point of contact for the agency consistent with the requirements we have described.

150. Finally, in the *Second Further Notice,* the Commission proposed to ''direct PSHSB to promulgate any additional procedural requirements that may be necessary to implement the Commission's proposals for the sharing of NORS and DIRS information, consistent with the Administrative Procedure Act.'' The Commission also stated that ''we foresee that such procedural requirements may include implementation of agency application processing procedures, necessary technical modifications to the NORS and DIRS databases (including, potentially, modifications designed to improve data protection and guard against unauthorized disclosure), and reporting guidelines to ensure that the Commission receives the notifications identified in Appendix C.'' The Commission sought comment on these proposals, and asked whether there were additional safeguards it should adopt for the application process or any other procedural requirements that would be necessary to implement the Commission's proposals. No commenters addressed these proposals or provided any evidence to rebut their necessity. Thus, we adopt them and we are confident that PSHSB's technical and administrative expertise will help facilitate the efficient implementation of the information sharing framework to further enhance public safety as contemplated by the rules we adopt today.

H. Effective Dates

151. In the *Second Further Notice,* the Commission proposed to have the Public Safety and Homeland Security Bureau issue a Public Notice that would (a) announce OMB approval of any new information collection requirements that the Commission might adopt in modifying the DIRS and NORS regime; and (b) set a date on which (i) service providers would be required to conform any new filings in NORS and DIRS to any newly adopted reporting protocols; and (ii) agencies could file certification forms requesting access to those reports. Thus, direct NORS and DIRS access would become available to eligible agencies as of the specified date. Moreover, the Commission proposed that the date set by the Bureau would be a date after the technical adjustments necessary to facilitate sharing had been made to the Commission's NORS and DIRS databases. The Commission tentatively concluded in the *Second Further Notice* that adoption of this proposal would give interested agencies ample time to prepare their certifications and give service providers sufficient time to adjust their NORS and DIRS filing processes to conform with technical changes required by today's final rule changes. While no commenter opposed our proposals, we find it in the public interest to adopt the proposals with one modification, *i.e.,* to specify an effective date, subject to extension, as part of today's decision.

152. We find that this approach provides the Commission adequate time to implement the regime contemplated by today's rules and will permit the Bureau time to account for contingencies, *i.e.,* the readiness of the databases and the OMB approval that facilitates the implementation of the revised regime. Our experience in other contexts informs our estimate that the NORS and DIRS database adjustments and related transition to implement the new requirements will require approximately 18 months. Accordingly, we set an effective date below of September 30, 2022 for the revisions to section 4.2. We delegate authority to the Public Safety and Homeland Security Bureau, which will seek OMB review and make adjustments to the databases, to extend this effective date if necessary by Public Notice published in the **Federal Register** (*e.g.,* if database adjustments take longer than we estimate here or if the required OMB review of the modified information collections under the new rule provisions is delayed).

IV. Procedural Matters

153. *Final Regulatory Flexibility Analysis.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this *Second Report and Order* on small entities. The FRFA is set forth in Appendix B.

154. *Paperwork Reduction Act Analysis.* As described at paras. 83 and 84, *supra,* service providers will be required to make adjustments to their NORS reporting processes, to accommodate the Commission's adjustments to its NORS web-based form, pursuant to section 47 CFR 4.11 of the Commission rules. These adjustments and today's new requirement that agencies file certification forms, pursuant to section 4.2, to request access to NORS and DIRS reports, constitute a modified information collection. They require that service providers modify their NORS reporting processes to provide the Commission with jurisdiction-specific reports and that participating agencies begin to provide the Commission with certification forms and reports and information related to known or reasonably suspected unauthorized use or improper disclosure of confidential NORS and DIRS information. These modified information collections will be submitted to the Office of Management and Budget (OMB) for review under

section 3507(d) of the Paperwork Reduction Act of 1995 (PRA). OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. This document will be submitted to OMB for review under section 3507(d) of the PRA. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission previously sought, but did not receive, specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission does not believe that the new or modified information collection requirements will be unduly burdensome on small businesses. Applying these new or modified information collections will promote public safety response efforts, to the benefit of all size governmental jurisdictions, businesses, equipment manufacturers, and business associations by providing better situational information related to the nation's network outages and infrastructure status. We describe impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the FRFA in Appendix B.

155. *Further Information.* For further information, contact Saswat Misra, Attorney-Advisor, Cybersecurity & Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418–0944 or via email at *Saswat.Misra@fcc.gov.*

V. Ordering Clauses

156. *Accordingly it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 4(o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, and 403, of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 154(i)–(j) & (o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 332, 403, and 1302, this Second Report and Order in PS Docket No. 15–80 is *adopted.*

157. *It is further ordered* that the amendments of the Commission's rules as set forth in Appendix A *are adopted*, effective September 30, 2022, as described at § III.H, above.

158. The Commission will submit this *Second Report and Order* to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for concurrence as to whether these rules are ''major'' or ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Second Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Final Regulatory Flexibility Analysis

159. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, Second Further Notice of Proposed Rulemaking (Second Further Notice).* The Commission sought written public comment on the proposals in the *Second Further Notice,* including comment on the IRFA. No comments were received specifically addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Second Report and Order

160. In the *Second Report and Order,* the Commission adopts various proposals made in the *Second Further Notice* adopted in February 2020. We take specific steps to share the Commission's network outage and infrastructure status information with state and Federal Government agencies and others whose official duties make them directly responsible for emergency management and first responder support functions (*i.e.,* have a ''need to know'').

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

161. No comments were submitted specifically in response to the IRFA, however a few commenters expressed concerns about the estimated costs to service providers discussed by the Commission in the *Second Further Notice.* Despite these concerns however, none of the commenters provided any cost data or analysis to support their concerns or rebut the Commission's cost estimates in accordance with the Commission's request for such data in the *Second Further Notice.* Similarly, while some state agency and advocacy organizations expressed concerns that it will be burdensome for voluntarily participating agencies to relay information they retrieve from the NORS and DIRS databases to other permissible ''downstream'' entities as allowed by the adopted information sharing framework, none of these entities attempt to quantify the costs associated with these activities.

162. Moreover, the Commission is unaware of any alternative approaches with lower costs, nor have any been identified by commenters, that would still ensure that the Commission promptly and reliably learns of the actions described above that may lead to the disclosure of NORS or DIRS-related information. Lessening the promptness or reliability of notifications to the Commission would disincentivize providers from supplying robust and fulsome NORS and DIRS reports and therefore reduce the benefits that those filings would provide to the Commission and participating agencies alike. We find that this reduction in benefits would outweigh the expected modest cost savings to those participating agencies that would be required to provide notifications under the framework we adopt today.

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

163. 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. No comments were filed by the SBA.

D. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

164. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' the same as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Such entities include Interconnected VoIP services, Wireline Providers, Wireless Providers—Fixed and Mobile, Satellite Service Providers, and Cable Service Providers.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

165. *Service Providers.* The rules adopted in the *Second Report and Order* require service providers to make minor adjustments to their existing reporting process to account for new or refined multistate reporting for the NORS filings.

166. *Voluntarily participating agencies.* Pursuant to the confidential protections adopted in the *Second Report and Order,* voluntarily participating agencies, including those that are small entities, will be required to notify the Commission when they receive requests for NORS filings, DIRS filings, or related records, and prior to the effective date of any change in relevant statutes of laws that would affect the agency's ability to adhere to the confidentiality protections that the Commission requires. Under the adopted information sharing framework, voluntarily participating agencies will also be required to submit to the Commission requests for direct access to NORS and DIRS filings which include a description of why the agency has a need to access NORS and DIRS filings (''need to know'') and how it intends to use the information in practice. Agencies applying for direct access to NORS and DIRS are required to demonstrate their ''need to know'' by citing to legal authority, in the form of a statutes, rules, court decisions, or other binding legal provisions, establishing that it has official duties involving preparing for, or responding to, an event that threatens public safety.

167. Additionally, participating agencies will be required to implement initial and annual security training to each person granted a user account for NORS and DIRS filings, and certify that they will take appropriate steps to safeguard the information contained in the filings, including notifying the Commission of unauthorized or improper disclosure. In the event of any known or reasonably suspected breach of protocol involving NORS and DIRS filings participating agencies will be required to report this information to the Commission and all affected providers immediately. Participating agencies will also be required to maintain and make available for inspection, upon Commission request, a list of all localities for which the agency has disclosed NORS and DIRS data.

168. In the *Second Report and Order,* the Commission allows participating agencies to share confidential NORS and DIRS information within an outside the agency subject to certain limitations. Participating agencies will also be required to execute an annual attestation form certifying and acknowledging compliance with requirements of the information sharing framework that the Commission adopts.

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

169. The Commission has taken specific steps minimize costs for both service providers and voluntarily participating agencies in the NORS and DIRS information sharing framework adopted in the *Second Report and Order.* The Commission did not make DIRS reporting mandatory as urged by some commenters in the proceeding. Moreover, while the Commission adopted changes to the NORS form filing to allow users to select more than one state when submitting a request for NORS information that modified the method in which service providers report outage information in NORS, this change did not impose additional levels of reporting to require disaggregation to provide a breakout of state-specific impacts by submitting state specific filings We note that service providers will not need to modify their DIRS reporting processing to accommodate multistate reporting. To provide participating agencies maximum flexibility and reduce potential costs of compliance with the training requirements, rather than mandate an agency's use of a specific training program, we adopted requirements that allow agencies to develop their own training program or rely on an outside training program that covers, at a minimum, a set of five ''program elements.''

170. In addition, rather than requiring third-party audits of training programs to ensure that state and Federal agencies' training programs comply with the Commission's proposed required program elements, participating agencies are required to make copies of their training curriculum available for the Commission's review upon demand which will significantly minimize costs associated with the required training programs. The Commission also declined to adopt a ''downstream training'' requirement which would have required any entity receiving NORS & DIRS information from a participating agency to complete formal training. Similarly, the Commission declined to adopt a requirement for participating agencies to obtain an affidavit on confidentiality from local entities prior to receipt NORS and DIRS information. To further assist and reduce the burden on small entities and other participating agencies with meeting the training requirements the Commission adopted in the *Second Report and Order,* the Commission will consult with diverse stakeholders with a range of perspectives, including state governments, the public safety community, service providers, and other industry representatives to develop exemplar training materials, that can be used by participating agencies to training their staffs on the proper uses of NORS and DORS filings.

171. The Commission also declined to grant local agencies direct access to NORS and DIRS considering among other things the burdens that would result for local entities, many of which may be small entities. Additionally, the Commission has adopted a single form to address the certifications and acknowledgments required for direct access to NORS and DIRS. The use of a single form, coupled with the fact that the proposed certification form is similar to one that the Commission currently requires for sharing sensitive numbering data with states using FCC Form 477 data, should help minimize preparation time and costs, specifically for those smaller agencies since these agencies should be familiar with the existing requirements and have comparable operational processes and procedures already in place.

Certification Form

Instructions: Please review and complete the form below. Please send your completed form to *NORS_DIRS_information_sharing@fcc.gov.* On review, the Commission will contact you to resolve any questions with your application papers or issue your agency login credentials for accessing NORS and DIRS.

[NAME OF AGENCY]

CERTIFICATION FORM FOR NORS AND DIRS SHARING

[your title]
[name of agency]
[address]
[address]

Dear Commission:

[Agency name] requests access to Network Outage Reporting System (NORS) and Disaster Information Reporting System (DIRS) filings involving [for states, the District of Columbia, or U.S. Territories, the name of state(s) or jurisdiction(s); for Federal agencies, the name of state(s) or nationwide; for Tribal nations, the name of the Tribal Government or component thereof] (filings).

I hereby certify and acknowledge that I am authorized to act on behalf of the [name of agency] and that [name of agency] is willing and able to be bound by the terms and conditions provided in this document.

On behalf of [agency name], I acknowledge and certify that [agency name] agrees to the terms below.

I hereby certify and acknowledge that each user account is to be assigned to a single employee and that [agency name] will promptly reassign user accounts to reflect changes as its roster of designated employees changes (*e.g.,* due to employee departure and arrival).

I hereby certify and acknowledge that [agency name] will change user account passwords and take other reasonable measures to ensure that user account credentials are not used by individuals who are not [agency name]'s designated employees.

I hereby certify and acknowledge that NORS and DIRS filings, and the information contained therein (collectively, NORS and DIRS filings and information) are sensitive and presumed confidential for national security and commercial competitiveness reasons.

I hereby certify that [agency name] will treat NORS and DIRS filings and data as confidential under Federal and state Freedom of Information Act statutes and similar laws and regulations and not disclose them absent a finding by the Commission that allows [agency name] to do so.

I hereby certify that [agency name] will treat NORS and DIRS filings and information in accordance with procedural and substantive protections that are equivalent to or greater than those afforded under Federal confidentiality statutes and rules, including but not limited to the Federal Freedom of Information Act. 5 U.S.C. 552(b)(4). To the extent that Federal confidentiality statutes and rules impose a higher standard of confidentiality than applicable state, U.S. territory, or Tribal law or regulations provide, I represent that the [name of agency] is legally able to and will adhere to the higher Federal standard. I agree that the [name of agency] will notify the Commission, within 14 calendar days via the email, *NORS_DIRS_information_sharing@fcc.gov,* when [name of agency] receives a request from a third party to disclose NORS filings and DIRS filings, or related records, pursuant to a state's open record laws or other legal authority that could compel [name of agency] to do so. I agree to notify the Commission via the email, *NORS_DIRS_information_sharing@fcc.gov,* at least 30 calendar days prior to the effective date of any change in relevant statutes of laws that would affect [name of agency]'s ability to adhere to at least the Federal confidentiality rules and statutes standard.

I hereby certify and acknowledge that the Commission's rules place restrictions on the access to and use of NORS and DIRS filings and information. I certify that I have reviewed and agree to comply with the restrictions regarding information sharing as described in part 4 of Title 47 of the Code of Federal Regulations.

I hereby certify and acknowledge that the [name of agency] will adopt or develop a NORS and DIRS security training program, if it has not already, that satisfies each of the required training program elements identified at [cite to forthcoming Order], that the [name of agency] will administer this training to each of its designated employees prior to their access to NORS and DIRS filings and information and then at least annually thereafter. The [name of agency] will make copies of its training curriculum available for the Commission's review upon demand.

I further acknowledge that [name of agency] will report immediately to any affected service providers and to the Commission, via the email *NORS_DIRS_information_sharing@fcc.gov* and *NSOC@fcc.gov*, any known or reasonably suspected breach of the protocol specified in the training program or any other known or reasonably suspected unauthorized use or improper disclosure of NORS and DIRS information.

I further acknowledge that if [name of agency] needs contact information for a provider, that [agency name] may request this information from the Commission at *NORS_DIRS_information_sharing@fcc.gov,* and that this does not toll [agency name]'s obligation to immediately notify any affected service providers, using the best contact information known to [agency name].

I acknowledge on behalf of [name of agency] that the Commission does not guarantee the accuracy of either the NORS or DIRS filings as both sets of filings are submitted to the respective web-based databases by service providers pursuant to mandatory reporting timeframes for NORS filings and voluntary reporting timeframes for DIRS filings. Further, I acknowledge that there may be times access to the filings is unavailable, *e.g.,* due to planned or unplanned service and maintenance.

I hereby certify and acknowledge that [agency name's] continued access to NORS and DIRS filings and information is conditioned on its annual recertification of a current version of this form, available on the Commission's website. I acknowledge that the Public Safety and Homeland Security Bureau (Bureau) of the Commission may terminate [agency name]'s access at any time, and for any reason, by giving written notice to [name of agency]. If access is terminated, I agree that [name of agency] will, upon the Commission's termination notice, cause to be securely destroyed any and all NORS and DIRS filings and information or other data received pursuant to this grant, whether electronic or hardcopy form.

I hereby certify and acknowledge that all the terms and conditions provided in this document apply to past and future NORS and DIRS filings and information.

I hereby certify that [employee name, title, phone number and email address] will manage my agency's access to NORS and DIRS filings by managing user accounts in accordance with the Commission's rules; coordinating the downstream sharing of NORS and DIRS filings; making available for Commission inspection a list of all localities for which the agency has disclosed NORS and DIRS data; coordinating with the Commission to manage an unauthorized access incident; and answering any questions from the Commission regarding my agency's access, use, or sharing of NORS and DIRS filings.

I hereby certify and acknowledge my and [agency name]'s obligation to inform the Commission if I cease to be the designated representative of [agency name] with authority to obligate and bind the agency to the statements above or if the employee listed above ceases to be the designated agency contact.

I acknowledge that the Bureau makes no determinations about any provisions of [name of state] law or agency regulations or your statements about such provisions.

Sincerely,

[name and title of official], on behalf of [name of agency]

Affirmed:

Lisa M. Fowlkes
Chief
Public Safety and Homeland Security Bureau
Federal Communications Commission

Exemplar Aggregated Data

Overview

The following provides general non-binding guidelines regarding how to aggregate NORS and DIRS data, followed by examples of aggregated NORS and DIRS data based on hypothetical information. The aggregated data presented does not reflect the exact number of users affected by a service provider's outage and is only used for situational awareness. We remind agencies participating in our framework that failure to properly aggregate data in accordance with the rules adopted in the *Second Order* could lead to the improper disclosure of service providers' confidential information and may result in termination of their access to NORS and DIRS filings by the Commission. Participating agencies with additional questions are urged to contact the Commission for guidance.

General Aggregation Guidelines

Aggregation 'Dos'

- It is best to aggregate only NORS and DIRS information of the same type (*e.g.,* aggregate wireless data and wireline data separately). If information is aggregated across different types, the public release of this information should state the types of NORS or DIRS information aggregated (*e.g.* ''This data includes wireless and wireline data'').
- It is best to aggregate 911 outages according to their impact (*e.g.,* 911 call delivery affected, only 911-caller location information affected). If information is aggregated across different types of 911 outages, the public release of this information should note the approximate proportion of the effects (*e.g.,* ''in most cases only location information is affected'').
- If aggregating NORS information, aggregate information related to long-term trends using final reports only.

• If aggregating NORS information from notifications or initial reports, please be aware that this information may change as service providers further remediate or investigate the outage. It is recommended that agencies make clear that this information is only preliminary and may change or be updated over time.

• If several reported outages seem very large, it is good practice to confirm the magnitude of the outage with the reporting service providers prior to releasing any aggregated information about them. In some instances, service providers may intentionally overestimate the effect of an outage out of an abundance of caution. Agencies should be aware of these circumstances prior to determining what information would be appropriate to release to the public.

• If an agency intends to aggregate the duration or the number of users affected by multiple outages, reporting the median is generally preferred over reporting the mean (average) because the mean may be skewed by unrepresentatively high or low outliers.

• When aggregating data for incidents occurring over a period of time, use the incident date/time, not the creation date or reportable date.

• The frequency of NORS outage reports varies by season. If aggregating for the purpose of comparing two time periods, it is advisable that the time periods be of the same season of the year (*e.g.,* compare January to March 2020, to January to March 2019, but not to July to August 2019.)

• Be careful when aggregating outages with durations of all 9's that are greater than 99 (*e.g.,* 999, 9999, 99999). These values can be indicators that the outage is ongoing even though the report is final. If in doubt, it is best to contact the reporting service provider and/or exclude these outages from the aggregation.

• Sudden increases or decreases in NORS reports may be the result of reporting rules changes or other effects. If sudden changes are noticed, the FCC should be consulted before data is made public. As a corollary, personnel responsible for data aggregation should keep up with any NORS rule changes.

Aggregation 'Don'ts'

• Do not release NORS data for a single outage, even if the name of the service provider is not mentioned in the release. Aggregation should always occur across at least four service providers, meaning that in most instances, agencies cannot release aggregated information about an ongoing outage.

• Do not aggregate data over a geographic region which has fewer than four service providers of that type in the region. For example, if a county is served by only three wireless service providers, do not report an aggregation of wireless outage data for that county.

• Do not aggregate NORS and DIRS data together.

• Do not aggregate NORS data at a scope smaller than a state, unless the reports you are aggregating all specify a smaller region (*e.g.,* a specific county or Tribal territory).

• In NORS, do not aggregate non-service affecting outages (*i.e.,* OC3 Simplex outages) with service affecting outages.

• Do not identify names of service providers as sources of outage data.

• Do not use the time zone data in NORS to determine outage location. This data is used only to identify the time zone for the incident time.

• Do not include Special Facilities outage reports in any aggregation.

Examples of Aggregated NORS and DIRS Data

NORS Example

The following table shows the total number of wireline users affected by wireline outages in each state as reported by 4 companies or more:

BILLING CODE 6712–01–P

Outage ID	Company	Reason Reportable	State Affected	Incident Date/Time	Duration Hours	Duration Minutes	Wireline Users Affected
ON-XXXX3471	Company 1	Wireline - 900,000 user-minutes	OHIO	1/4/2018 20:36	10	39	2,450
ON-XXXX3475	Company 4	Wireline - 900,000 user-minutes	OHIO	1/5/2018 20:36	4	35	43,540
ON-XXXX3477	Company 3	Wireline - 900,000 user-minutes	OHIO	1/6/2018 20:36	6	53	35,000
ON-XXXX3575	Company 4	Wireline - 900,000 user-minutes	OHIO	1/7/2018 20:36	0	30	40,313
ON-XXXX3580	Company 3	Wireline - 900,000 user-minutes	OHIO	1/8/2018 20:36	3	11	257,690
ON-XXXX3581	Company 2	Wireline - 900,000 user-minutes	OHIO	1/9/2018 20:36	5	28	23,434
ON-XXXX3582	Company 3	Wireline - 900,000 user-minutes	OHIO	1/10/2018 20:36	14	6	22,720
ON-XXXX3590	Company 3	Wireline - 900,000 user-minutes	OHIO	1/11/2018 20:36	10	7	10,897
ON-XXXX3591	Company 5	Wireline - 900,000 user-minutes	OHIO	1/12/2018 20:36	8	16	42,480
ON-XXXX3592	Company 3	Wireline - 900,000 user-minutes	OHIO	1/13/2018 20:36	3	11	257,690
ON-XXXX3593	Company 2	Wireline - 900,000 user-minutes	OHIO	1/14/2018 20:36	5	28	23434
ON-XXXX3598	Company 2	Wireline - 900,000 user-minutes	OHIO	1/15/2018 20:36	14	6	22,720
ON-XXXX3472	Company 1	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/4/2018 20:36	10	7	10,897
ON-XXXX3474	Company 2	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/5/2018 20:36	8	16	42480
ON-XXXX3479	Company 4	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/6/2018 20:36	2	6	116000
ON-XXXX3481	Company 3	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/7/2018 20:36	26	6	1,624
ON-XXXX3560	Company 3	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/8/2018 20:36	21	35	234235
ON-XXXX3578	Company 1	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/9/2018 20:36	6	21	59,647
ON-XXXX3579	Company 2	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/10/2018 20:36	11	27	8,860
ON-XXXX3595	Company 1	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/11/2018 20:36	10	39	2450
ON-XXXX3599	Company 3	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/12/2018 20:36	4	35	43,540
ON-XXXX3600	Company 1	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/13/2018 20:36	6	53	35,000
ON-XXXX3601	Company 5	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/14/2018 20:36	0	30	40313
ON-XXXX3602	Company 1	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/15/2018 20:36	3	11	257690
ON-XXXX3603	Company 1	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/16/2018 20:36	5	28	23434
ON-XXXX3604	Company 1	Wireline - 900,000 user-minutes	PENNSYLVANIA	1/17/2018 20:36	14	6	22720
ON-XXXX3476	Company 1	Wireline - 900,000 user-minutes	VIRGINIA	1/5/2018 20:36	10	7	10,897
ON-XXXX3480	Company 2	Wireline - 900,000 user-minutes	VIRGINIA	1/6/2018 20:36	8	16	42480
ON-XXXX3482	Company 3	Wireline - 900,000 user-minutes	VIRGINIA	1/7/2018 20:36	2	6	116,000
ON-XXXX3485	Company 1	Wireline - 900,000 user-minutes	VIRGINIA	1/8/2018 20:36	26	6	1,624
ON-XXXX3487	Company 1	Wireline - 900,000 user-minutes	VIRGINIA	1/9/2018 20:36	3	11	257690
ON-XXXX3490	Company 4	Wireline - 900,000 user-minutes	VIRGINIA	1/10/2018 20:36	5	28	23434
ON-XXXX3502	Company 1	Wireline - 900,000 user-minutes	VIRGINIA	1/11/2018 20:36	14	6	22,720
ON-XXXX3507	Company 3	Wireline - 900,000 user-minutes	VIRGINIA	1/12/2018 20:36	10	7	10,897
ON-XXXX3517	Company 2	Wireline - 900,000 user-minutes	VIRGINIA	1/13/2018 20:36	8	16	42,480
ON-XXXX3530	Company 1	Wireline - 900,000 user-minutes	VIRGINIA	1/14/2018 20:36	2	6	116000
ON-XXXX3531	Company 1	Wireline - 900,000 user-minutes	VIRGINIA	1/15/2018 20:36	26	6	1624

For the NORS aggregation example table below, the number of wireline users affected from all reports above per state were added and are presented in the total number of wireline users affected per state:

State Affected	Wireline Users Affected
OHIO	782,368
PENNSYLVANIA	898,890
VIRGINIA	645,846

DIRS Example

The following table shows the total number of cell sites were affected by a disaster in each state as reported by 4 companies or more:

ID Number	Company	County	Percent of Historical Capacity Available	Cell Sites Served	Cell Sites Affected (Down)	Cell Sites Out Due to Cell Site Damage	Cell Sites Out Due to Transport	Cell Sites Out Due to No Power at Cell	Cell Sites on Back-Up Power	State	Updated
0XX-XXXXXXXX X1561	Company 1	County	99	164	1	0	1	0	0	CALIFORNIA	19:19.0
0XX-XXXXXXXX X1562	Company 2	County	100	26	0	0	0	0	0	CALIFORNIA	19:19.0
0XX-XXXXXXXX X1563	Company 3	County	99.82	1623	3	0	0	0	0	CALIFORNIA	03:53.0
0XX-XXXXXXXX X1564	Company 4	County	100	2238	4	3	1	0	0	CALIFORNIA	24:21.0
0XX-XXXXXXXX X1565	Company 1	County	100	8	0	0	0	0	0	FLORIDA	19:19.0
0XX-XXXXXXXX X1566	Company 2	County	100	23	0	0	0	0	0	FLORIDA	19:19.0
0XX-XXXXXXXX X1567	Company 3	County	100	203	0	0	0	0	0	FLORIDA	19:19.0
0XX-XXXXXXXX X1568	Company 4	County		9	3	0	1	2	0	FLORIDA	56:04.0
0XX-XXXXXXXX X1569	Company 5	County		14	5	0	2	3	0	FLORIDA	56:04.0
0XX-XXXXXXXX X1570	Company 1	County		148	26	0	10	16	0	FLORIDA	56:04.0
0XX-XXXXXXXX X1571	Company 2	County	100	50	0	0	0	0	0	FLORIDA	02:42.0
0XX-XXXXXXXX X1572	Company 3	County	100	9	0	0	0	0	0	GEORGIA	57:15.0
0XX-XXXXXXXX X1573	Company 4	County	100	2	0	0	0	0	0	GEORGIA	58:09.0
0XX-XXXXXXXX X1574	Company 5	County	100	24	0	0	0	0	0	GEORGIA	58:25.0
0XX-XXXXXXXX X1575	Company 3	County	100	33	0	0	0	0	0	GEORGIA	58:42.0
0XX-XXXXXXXX X1576	Company4	County		95	13	0	0	13	0	GEORGIA	56:04.0
0XX-XXXXXXXX X1577	Company 2	County		233	0	0	0	0	0	GEORGIA	56:04.0
0XX-XXXXXXXX X1578	Company 1	County	100	285	0	0	0	0	1	GEORGIA	03:04.0
0XX-XXXXXXXX X1579	Company 1	County		33	11	0	4	7	0	PENNSYLVANIA	56:04.0
0XX-XXXXXXXX X1580	Company 2	County		126	0	0	0	0	0	PENNSYLVANIA	04:52.0
0XX-XXXXXXXX X1581	Company 3	County		126	0	0	0	0	0	PENNSYLVANIA	05:36.0
0XX-XXXXXXXX X1582	Company 4	County	100	28	0	0	0	0	0	PENNSYLVANIA	24:28.0
0XX-XXXXXXXX X1583	Company 5	County	100	13	0	0	0	0	0	PENNSYLVANIA	24:28.0
0XX-XXXXXXXX X1584	Company 3	County	100	16	0	0	0	0	0	PENNSYLVANIA	24:28.0
0XX-XXXXXXXX X1585	Company 1	County	100	46	0	0	0	0	0	PENNSYLVANIA	24:28.0
0XX-XXXXXXXX X1586	Company 2	County	100	1	0	0	0	0	0	PENNSYLVANIA	24:28.0
0XX-XXXXXXXX X1587	Company 3	County	100	37	0	0	0	0	0	PENNSYLVANIA	58:32.0

For the DIRS aggregation example table below, the number of cell sites affected from all wireless reports above for each state were added and presented in the total number of affected cell sites per state in the table below. The percentage of cell sites out of service were calculated by dividing the number of cell sites served by the number of cell sites out of service for each state:

State Affected	Sum of Cell Sites Served	Sum of Cell Sites Out of Service	Sum of Cell Sites Out Due to Cell Site Damage	Sum of Cell Sites Out Due to Transport	Sum of Cell Sites Out Due to No Power	Percent Cell Sites Out of Service
CALIFORNIA	4051	8	3	2	0	0.20%
FLORIDA	455	34	0	13	21	7.47%
GEORGIA	681	13	0	0	13	1.91%
PENNSYLVANIA	426	11	0	4	7	2.58%

List of Subjects in 47 CFR Part 4

Airports, Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rule

For the reasons set forth above, part 4 of title 47 of the Code of Federal Regulations is amended as follows:

PART 4—DISRUPTIONS TO COMMUNICATIONS

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

Authority: 47 U.S.C. 34–39, 151, 154, 155, 157, 201, 251, 307, 316, 615a–1, 1302(a), and 1302(b); 5 U.S.C. 301, and Executive Order no. 10530.

■ 2. Section 4.2 is revised to read as follows:

§ 4.2 Availability of reports filed under this part.

Reports filed under this part will be presumed to be confidential under § 0.457(d)(1) of this chapter. Notice of any requests for inspection of outage reports will be provided pursuant to § 0.461(d)(3) of this chapter except that the Chief of the Public Safety and Homeland Security Bureau may grant, without providing such notice, an agency of the states, the District of Columbia, U.S. territories, Federal Government, or Tribal Nations direct access to portions of the information collections affecting its respective jurisdiction after the requesting agency has certified to the Commission that it has a need to know this information and has protections in place to safeguard and limit the disclosure of this information as described in the Commission's Certification Form for NORS and DIRS Sharing (Certification Form). Sharing is restricted by the following terms:

(a) Requesting Agencies granted direct access to information collections must report immediately to any affected service providers and to the Commission any known or reasonably suspected unauthorized use or improper disclosure, manage their agency's access to outage reports by managing user accounts in accordance with the Commission's rules, coordinate with the Commission to manage an unauthorized access incident, and answer any questions from the Commission regarding their agency's access, use, or sharing of reports.

(b) Agencies granted direct access to information collections may share copies of the filings, and any confidential information derived from the filings, outside their agency on a strict need-to-know basis when doing so pertains to a specific imminent or on-going public safety event. The agency must condition the recipients' receipt of confidential NORS and DIRS information on the recipients' certification, on a form separate from the Certification Form, that they will treat the information as confidential, not publicly disclose it absent a finding by the Commission that allows them to do so, and securely destroy the information by, at a minimum, securely cross-cut shredding, or machine-disintegrating, paper copies of the information, and irrevocably clearing and purging digital copies, when the public safety event that warrants access to the information has concluded.

(c) Except as permitted pursuant to paragraph (b) of this section, agencies granted direct access to information collections may not share filings, or any confidential information derived from the filings, with non-employees of the agency, including agency contractors, unless such sharing is expressly authorized in writing by the Commission.

(d) Agencies granted direct access to information collections may disseminate aggregated and anonymized information to the public. Such information must be aggregated from at least four service providers and must be sufficiently anonymized so that it is not possible to identify any service providers by name or in substance.

(e) Consequences for an Agency's failure to comply with these terms may result in, among other measures, termination of direct access to reports by the Commission for a time period to be determined by the Commission based on the totality of the circumstances surrounding the failure.

[FR Doc. 2021–07457 Filed 4–28–21; 8:45 am]

BILLING CODE 6712–01–C

FEDERAL REGISTER

Vol. 86 Thursday,

No. 81 April 29, 2021

Part III

The President

Executive Order 14025—Worker Organizing and Empowerment

Federal Register
Vol. 86, No. 81
Thursday, April 29, 2021

Presidential Documents

Title 3—

The President

Executive Order 14025 of April 26, 2021

Worker Organizing and Empowerment

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy and Findings.* The National Labor Relations Act (29 U.S.C. 151) proclaims that the policy of the United States is to encourage worker organizing and collective bargaining and to promote equality of bargaining power between employers and employees. In the Federal Service Labor-Management Relations Statute (5 U.S.C. 7101(a)(1)), the Congress found that ''experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them . . . safeguards the public interest, . . . contributes to the effective conduct of public business, and . . . facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment.''

In the past few decades, the Federal Government has not used its full authority to promote and implement this policy of support for workers organizing unions and bargaining collectively with their employers. During this period, economic change in the United States and globally, technological developments, and the failure to modernize Federal organizing and labor-management relations laws to respond appropriately to the reality found in American workplaces, have made worker organizing exceedingly difficult.

The result has been a steady decline in union density in the United States and the loss of worker power and voice in workplaces and communities across the country. This decline has had a host of negative consequences for American workers and the economy, including weakening and shrinking America's middle class. Meanwhile, some workers have been excluded from opportunities to organize unions and bargain collectively with their employers by law or practice, and so have never been able to build meaningful economic power or have a voice in their workplaces.

Confirming the policies declared in Federal labor laws, substantial evidence shows that union membership increases wages, the likelihood of receiving employer-provided benefits, and job security. Union membership also gives workers the means to build the power to ensure that their voices are heard in their workplaces, their communities, and in the Nation.

Therefore, it is the policy of my Administration to encourage worker organizing and collective bargaining.

Sec. 2. *Task Force on Worker Organizing and Empowerment.* There is hereby established within the Executive Office of the President the Task Force on Worker Organizing and Empowerment (Task Force).

(a) The Vice President shall serve as Chair of the Task Force. In addition to the Vice President, the Task Force shall consist of the following officials or their designees:

(i) the Secretary of Labor, who shall serve as Vice Chair of the Task Force;

(ii) the Secretary of the Treasury;

(iii) the Secretary of Defense;

(iv) the Secretary of the Interior;

(v) the Secretary of Agriculture;

(vi) the Secretary of Commerce;

(vii) the Secretary of Health and Human Services;

(viii) the Secretary of Housing and Urban Development;

(ix) the Secretary of Transportation;

(x) the Secretary of Energy;

(xi) the Secretary of Education;

(xii) the Secretary of Veterans Affairs;

(xiii) the Secretary of Homeland Security;

(xiv) the Administrator of the Environmental Protection Agency;

(xv) the Administrator of General Services;

(xvi) the Administrator of the Small Business Administration;

(xvii) the United States Trade Representative;

(xviii) the Director of the Office of Management and Budget;

(xix) the Director of the Office of Personnel Management;

(xx) the Chair of the Council of Economic Advisers;

(xxi) the Assistant to the President for Domestic Policy;

(xxii) the Assistant to the President for Economic Policy;

(xxiii) the Assistant to the President and National Climate Advisor; and

(xxiv) the heads of such other executive departments, agencies, and offices as the President may from time to time designate upon the recommendation of the Chair of the Task Force.

(b) The Task Force and its members shall identify executive branch policies, practices, and programs that could be used, consistent with applicable law, to promote my Administration's policy of support for worker power, worker organizing, and collective bargaining. This identification shall include policies, practices, and programs that could be used to promote worker power in areas of the country with hostile labor laws, for marginalized workers (including women and persons of color) and hard-to-organize industries, and in changing industries. The Task Force and its members also shall identify statutory, regulatory, or other changes that may be necessary to make policies, practices, and programs more effective means of supporting worker organizing and collective bargaining.

(c) The functions of the Task Force are advisory in nature only; the purpose of the Task Force is to make recommendations regarding changes to policies, practices, programs, and other changes that would serve the objectives of this order.

(d) The Task Force should invite the National Labor Relations Board, the Federal Labor Relations Authority, the National Mediation Board, and other executive agencies, boards, and commissions with responsibility for implementing laws concerning worker organizing and collective bargaining to consult, as appropriate and consistent with applicable law, with the Task Force.

(e) The Chair may establish such sub-committees or other working groups composed of Task Force members or their representatives as may be necessary to accomplish the objectives of this order.

(f) Consistent with the objectives of this order and applicable law, the Task Force may gather relevant information from labor organizations, other worker advocates, academic and other experts, and other entities and persons it identifies that will assist the Task Force in accomplishing the objectives of this order.

(g) The Task Force shall, within 180 days of the date of this order, submit to the President recommendations for actions as described in subsection (b) of this section to promote worker organizing and collective bargaining in the public and private sectors, and to increase union density. The Task Force may, at the Chair's discretion, recommend appropriate or time-sensitive individual actions to promote worker organizing and collective bargaining before the deadline established by this section. The Task Force and its members shall work to implement all recommendations that the President may approve, to the extent permitted by law, and shall report their progress as directed by the Chair.

Sec. 3. *Definitions.* For purposes of this order:

(a) ''Policies, practices, and programs'' includes regulations; guidance and other formal policy documents; procurements; grants and other direct or indirect Federal investments; tax and trade administration and enforcement; administration and enforcement of labor, employment, and other relevant laws; property management; and human resources management and labor relations.

(b) ''Worker organizing and collective bargaining'' encompasses the private sector, State and local governments, and the Federal Government. It also includes those sectors of the economy and those workers who have not historically been able to unionize, or whose ability to effectively collectively bargain or organize has been undermined.

(c) the term ''agency'' refers to all agencies described in section 3502(1) of title 44, United States Code, except for the agencies described in section 3502(5) of title 44.

Sec. 4. *Revocations.* (a) Executive Order 13845 of July 19, 2018 (Establishing the President's National Council for the American Worker), and Executive Order 13931 of June 26, 2020 (Continuing the President's National Council for the American Worker and the American Workforce Policy Advisory Board), are revoked.

(b) The Director of the Office of Management and Budget and the heads of executive departments and agencies shall promptly consider taking steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing Executive Order 13845 or Executive Order 13931, as appropriate and consistent with applicable law, including the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). In addition, they shall abolish any personnel positions, committees, task forces, or other entities established pursuant to Executive Order 13845 or Executive Order 13931, as appropriate and consistent with applicable law.

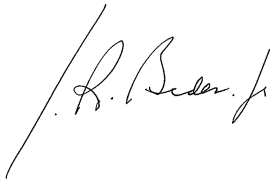
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
April 26, 2021.

[FR Doc. 2021–09213
Filed 4–28–21; 11:15 am]
Billing code 3295–F1–P

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Federal Register

Vol. 86, No. 81

Thursday, April 29, 2021

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Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
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FEDERAL REGISTER PAGES AND DATE, APRIL

17055–17270 1
17271–17492 2
17493–17674 5
17675–17892 6
17893–18170 7
18171–18422 8
18423–18882 9
18883–19126 12
19127–19566 13
19567–19774 14
19775–20022 15
20023–20248 16
20249–20434 19
20435–20614 20
20615–21158 21
21159–21632 22
21633–21916 23
21917–22104 26
22105–22338 27
22339–22580 28
22581–22832 29

CFR PARTS AFFECTED DURING APRIL

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.

2 CFR

2900 22107

3 CFR

Proclamations:
10163 17493
10164 17495
10165 17675
10166 17677
10167 17679
10168 17681
10169 17683
10170 17685
10171 17689
10172 17893
10173 18167
10174 18169
10175 18171
10176 19567
10177 19775
10177 (Correction) 21915
10178 20023
10179 20025
10180 20027
10181 20615
10182 20617
10183 20619
10184 21161
10185 21633
10186 22105
10187 22339
Executive Orders:
13845 (revoked by 14025) 22829
13931 (revoked by 14025) 22829
14022 17895
14023 19569
14024 20249
14025 22829
Administrative Orders:
Notices:
Notice of April 1, 2021 17673
Presidential Determinations: No. 2021–05 of April 16, 2021 21159

5 CFR

831 20435
842 20435
870 17271
875 17271
890 17271
894 17271
2641 17691

6 CFR

Proposed Rules:
37 20320

7 CFR

271 18423
273 18423
457 22581
930 20253
1205 20255
1752 17274
4280 22304
Proposed Rules:
319 20037
932 18216
945 21667
985 20038
986 19152
1220 19788

10 CFR

Proposed Rules:
37 18477
429 20075
430 ..... 18478, 18901, 20044, 20053, 20327
431 20075

12 CFR

262 18173
271 18423
360 18180
702 20258
Ch. X 17699
1003 17692
1005 17693
1006 21163
1010 17694
1022 17695
1024 17897
1026 ..... 17693, 17697, 17698
1238 18431
Proposed Rules:
209 19152
1006 20334
1024 18840

14 CFR

29 20264
39 ..... 17275, 17278, 17280, 17283, 17285, 17287, 17290, 17497, 17499, 17502, 17504, 17510, 17512, 17515, 17518, 17521, 17700, 17703, 17706, 17708, 17710, 17899, 17902, 17905, 18180, 18883, 18887, 19127, 19571, 19777, 20029, 20266, 20440, 20442, 20445, 20448, 20451, 20453, 20621, 21181, 21185, 21187, 21635, 21637, 21641, 21917, 21920, 21923, 21927, 22109, 22111, 22341, 22584
71 ..... 18432, 18890, 19129, 19780, 20269, 20270, 21187, 21645

97 .....17524, 17526, 20271, 20276, 21919, 21932
302.....17292
399.....17292
415.....20625
417.....20625
431.....20625
435.....20625
Proposed Rules:
39 .....17087, 17322, 17324, 17326, 17329, 17330, 17993, 17995, 17998, 18218, 18218, 18221, 18479, 18482, 18921, 19157, 19160, 20086, 20089, 20091, 20094, 20097, 20336, 20338, 20341, 20459, 20461, 20465, 21228, 21231, 21233, 21238, 21240, 21965, 21967, 21969, 22363
71 .....17333, 17553, 17754, 18484, 18485, 18487, 18488, 18490, 20100, 20468, 20469, 21243, 21669, 21672, 21673, 22366, 22368
73.....17555

15 CFR

4.....21933
732.....18433
736.....18433
744.....18433, 18437
902.....22587

16 CFR

1231.....17296
1640.....18440
Proposed Rules:
1640.....18491

17 CFR

1.....19324
4.....19324
41.....19324
190.....19324
240.....18595
242.....18595
249.....17528, 18595
274.....17528

18 CFR

35.....20627, 21935
40.....22588
401.....20628
440.....20628
Proposed Rules:
35.....21246, 21972
101.....17342

19 CFR

Ch. I.....21188, 21189
12.....17055
208.....18183, 19781
361.....17058

20 CFR

426.....20631
Proposed Rules:
655.....17343
656.....17343

21 CFR

1.....17059
207.....17061
510.....17061
520.....17061
522.....17061
524.....17061
528.....17061
558.....17061
821.....17065
862.....20278
866.....20278
880.....20278
884.....20278
892.....20278
1308.....20284, 22113
Proposed Rules:
172.....21675
573.....21984

22 CFR

62.....20286
181.....22118
212.....18444, 20632

24 CFR

Proposed Rules:
5.....17346, 22125
93.....21984
576.....22125

25 CFR

Proposed Rules:
15.....19585
1187.....19162

26 CFR

1.....21646, 22345
Proposed Rules:
1.....19585
300.....21246

27 CFR

Proposed Rules:
9.....20102

29 CFR

10.....22597
531.....22597
578.....22597
579.....22597
580.....22597
4908.....17066
Proposed Rules:
1910.....18924

30 CFR

550.....19782
553.....19782
917.....21937
1206.....20032
1241.....20032
Proposed Rules:
935.....22370
943.....21246

31 CFR

501.....18895
551.....22346
Proposed Rules:
1.....19790
1010.....17557

33 CFR

100 .....20035, 20632, 20633, 22119
117.....18445, 19574
165 .....17066, 17068, 18447, 18449, 18896, 19784, 20633, 20636, 21647, 22119, 22610
Proposed Rules:
96.....17090
100.....19169, 21985
110.....17090
117 .....17096, 18925, 18927, 18929, 20344
165 .....17565, 17755, 18224, 19171, 19599, 21988

34 CFR

Ch. II.....21195
Ch. III.....19135
677.....21190
Proposed Rules:
Ch. II.....17757, 20348, 20471

36 CFR

230.....17302
242.....17713

37 CFR

Proposed Rules:
201.....21990
203.....21990
221.....21990

38 CFR

Proposed Rules:
3.....17098

39 CFR

113.....20287
3040.....18451
Proposed Rules:
121.....21675
3030.....17347, 19173
3050.....17100, 20351

40 CFR

35.....22612, 22617
52 .....17071, 18457, 20289, 21207, 21648, 21941, 21942
62.....17543
80.....17073
81.....19576
180 .....17545, 17907, 17910, 17914, 17917, 19145, 20290, 21944
258.....18185
271.....22121
1519.....19149
Proposed Rules:
52 .....17101, 17106, 17567, 17569, 17762, 19174, 19793, 20353, 20642, 20643, 20645, 21248, 21254, 22372
60.....19176
63.....19176
70.....21254
81 .....17762, 18227, 20353
141.....17571
152.....18232
258.....18237
271.....17572, 22126

41 CFR

105–70.....21948

42 CFR

100.....21209
414.....21949
Proposed Rules:
59.....19812
411.....19954
412.....19086, 19480
413.....19954
418.....19700
484.....19700
489.....19954

43 CFR

51.....19786
Proposed Rules:
30.....19585

44 CFR

64 .....17078, 19580, 22357

46 CFR

76.....21650
161.....21650
310.....21213
530.....21651
Proposed Rules:
71.....17090
110.....21440
111.....21440
112.....21440
113.....21440
115.....17090
176.....17090
520.....18240

47 CFR

Ch. I.....18459, 18898
0.....17726
1 .....17920, 18124, 20294, 20456, 21216, 22360
2.....17920, 20456
4.....22360, 22796
9.....19582
25.....17311
27.....17920
54 .....17079, 18124, 19532
64.....17726
73 .....18898, 20294, 21217, 21662, 22621
74.....21217
Proposed Rules:
0.....17575
1.....18000
2.....20111
15.....20111
25.....20111, 20647
27.....18000, 20111
54.....18932
64.....18934
73 .....17110, 17348, 18934, 20648, 21258, 21681, 22126, 22382, 22624
101.....20111

48 CFR

501.....21663
504.....21665
509.....21665
570.....21665
3001.....17312
3002.....17312
3003.....17312
3004.....17312
3005.....17312
3006.....17312
3007.....17312
3009.....17312
3010.....17312
3011.....17312
3012.....17312
3013.....17312
3015.....17312

3016 17312
3017 17312
3018 17312
3019 17312
3022 17312
3023 17312
3024 17312
3025 17312
3027 17312
3028 17312
3030 17312
3031 17312
3032 17312
3033 17312
3034 17312
3035 17312
3036 17312
3037 17312
3042 17312
3046 17312
3047 17312
3052 17312
3053 17312

Proposed Rules:

32 20648
352 20648
532 20359
1532 19833
1552 19833

49 CFR

1 17292
5 17292
7 17292
106 17292
389 17292
553 17292
601 17292
1201 17548
1333 17735

Proposed Rules:

383 21259
384 21259
391 21259

50 CFR

17 ....17956, 18189, 20798, 21950, 22518
92 ....20311, 22361
100 17713
217 ....17458, 18476
223 21082
224 21082
226 21082
300 20638
622 ....17080, 17318, 17751
648 ....17081, 17551, 21961
660 ....22587, 22622
679 ....17320, 17752, 18476, 20035, 22361, 22362

Proposed Rules:

17 ....18014, 19184, 19186, 19838, 21994, 21995, 22127
223 ....19863, 20475
224 19863
622 20649
635 22006
648 17764
679 19207

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 April 27, 2021

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