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

DEPARTMENT OF HOMELAND SECURITY

6 CFR Chapter I

49 CFR Chapter XII

[DHS Docket No. DHS–2021–0018]

Ratification of Security Directives and Emergency Amendment

AGENCY: Office of Strategy, Policy, and Plans, Department of Homeland Security (DHS).

ACTION: Notification of ratification of directives and emergency amendment.

SUMMARY: DHS is publishing official notification that the Transportation Security Oversight Board (TSOB) has ratified Transportation Security Administration (TSA) aviation security directives (SDs) applicable to airport and aircraft operators and an emergency amendment (EA) applicable to foreign air carriers requiring mask wearing at airports and onboard commercial aircraft to protect the safety and security of the traveling public, transportation workers, and the transportation system from the threat of COVID–19.

DATES: The ratification was executed on April 20, 2021, and took effect on that date.

FOR FURTHER INFORMATION CONTACT: John D. Cohen, DHS Coordinator for Counterterrorism and Assistant Secretary for Counterterrorism and Threat Prevention, DHS Office of Strategy, Policy, and Plans, (202) 282–9708, *john.cohen@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Executive Order, DHS Determination, and Centers for Disease Control and Prevention (CDC) Order

On January 21, 2021, in recognition of the continuing threat to health, safety, and economic and national security posed by COVID–19, including the new virus variants, the President issued Executive Order 13,998, *Promoting COVID–19 Safety in Domestic and International Travel.*[1] The Executive Order directs the Secretary of Homeland Security, in coordination with other federal officials and ''through the Administrator of the Transportation Security Administration,'' to ''immediately take action, to the extent appropriate and consistent with applicable law, to require masks to be worn in compliance with CDC guidelines'' in or on airports, commercial aircraft, trains, public maritime vessels, intercity bus services, and all forms of public transportation.[2] The Executive Order focuses on a nationwide, ''whole of government'' approach to addressing security and safety concerns presented by the continued transmission of COVID–19 through the transportation system.

On January 27, 2021, the Acting Secretary of Homeland Security issued a *Determination of a National Emergency Requiring Actions to Protect the Safety of Americans Using and Employed by the Transportation System.*[3] The Acting Secretary's determination directs TSA to take actions consistent with its statutory authorities ''to implement the Executive Order to promote safety in and secure the transportation system.'' In particular, the determination directs TSA to support ''the CDC in the enforcement of any orders or other requirements necessary to protect the transportation system, including passengers and employees, from COVID–19 and to mitigate the spread of COVID–19 through the transportation system.''

On January 29, 2021, the Director of the CDC's Division of Global Migration and Quarantine issued a Notice and Order titled *Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs.*[4] The CDC Order, effective February 1, 2021, provides that it ''shall be enforced by the Transportation Security Administration under appropriate statutory and regulatory authorities'' and ''further enforced by other federal authorities'' as well as ''cooperating state and local authorities.''[5]

B. TSA Security Directives 1542–21–01 and 1544–21–02 and Emergency Amendment 1546–21–01

On January 31, 2021, the Senior Official Performing the Duties of the TSA Administrator issued SD 1542–21–01 to airport operators, SD 1544–21–02 to aircraft operators, and EA 1546–21–01 to foreign air carriers requiring mask wearing at airports and onboard commercial aircraft to protect the safety and security of the traveling public, transportation workers, and the transportation system from the threat of COVID–19. The SDs and EA, which are available in the docket for this notice at *https://www.regulations.gov/,* became effective on February 1, 2021, and were scheduled to expire on May 11, 2021. Neither the Acting Secretary's national emergency determination nor the CDC Order includes an expiration date and they remain in effect based on specific public health conditions and in consideration of the public health emergency.

The SDs and EA implement the Executive Order, the Acting Secretary of Homeland Security's national emergency determination, and the CDC Order by requiring mask wearing at airports and onboard commercial aircraft. The SDs and EA mandate measures to secure and promote safety in the transportation system, including passengers and employees, by mitigating against the further spread of COVID–19. Under the airport operator SD, covered operators must: (1) Make best efforts to provide individuals with prominent and adequate notice of the mask requirement to facilitate awareness and compliance; (2) require individuals to wear a mask; (3) escort individuals from the airport who refuse to comply with the mask requirement; and (4) report incidents of non-compliance to TSA. Under the aircraft operator SD and the EA, covered operators and carriers must: (1) Provide prominent and adequate notice of the mask requirement to facilitate awareness and compliance; (2) require individuals to wear a mask; (3) refuse to

[1] 86 FR 7205 (published Jan. 26, 2021).

[2] *Id.*

[3] Acting Secretary David P. Pekoske, Determination of a National Emergency Requiring Actions to Protect the Safety of Americans Using and Employed by the Transportation System (Jan. 27, 2021), *available at https://www.dhs.gov/publication/determination-national-emergency-requiring-actions-protect-safety-americans-using-and* (accessed Feb. 22, 2021).

[4] 86 FR 8025 (Feb. 3, 2021).

[5] *Id.* at 8030.

board individuals who are not wearing a mask and make best efforts to disembark those who refuse to comply as soon as practicable; and (4) report incidents of non-compliance to TSA. Consistent with the CDC Order, the SDs and EA permit limited exemptions from the requirement to wear a mask in the transportation system, and do not preempt state or local requirements that are the same or more protective of public health than TSA's mandatory measures.

II. TSOB Ratification

TSA has broad authority to issue orders, regulations, and directives related to all forms of transportation (including air transportation), as well as separate authority specific to aviation, including operators of aircrafts and airports.[6] The TSOB—a body consisting of the heads of various interested Cabinet agencies, or their designees, and a representative of the National Security Council—reviews TSA regulations and security directives consistent with law.[7] The chairman of the TSOB [8] convened the Board for review of TSA SDs 1542–21–01 and 1544–21–02 and EA 1546–21–01.[9]

Following its review, on April 20, 2021, the TSOB ratified the SDs and EA. As part of this ratification, the TSOB also ratified any extension of the SDs and EA for a period no longer than the period of time that the Acting Secretary's national emergency determination and the CDC Order remain in effect should the TSA Administrator determine that such an extension is warranted to support implementation of the Executive Order, the national emergency determination, and the CDC order.

The SDs and EA are available in the docket for this notice at *https://www.regulations.gov/.*

David P. Pekoske,

Senior Official Performing the Duties of Deputy Secretary of Homeland Security & Chairman of the Transportation Security Oversight Board, U.S. Department of Homeland Security.

[FR Doc. 2021–10433 Filed 5–17–21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0270; Project Identifier AD–2021–00352–T; Amendment 39–21508; AD 2021–08–14]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company 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 The Boeing Company Model 737–300, –400, and –500 series airplanes. This AD was prompted by a flap synchro wire failure that may go undetected by the autothrottle (A/T) computer. This AD requires repetitive BITE (built-in test equipment) tests of the A/T computer to detect a flap synchro wire failure, and corrective action if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 2, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 2, 2021.

The FAA must receive comments on this AD by July 2, 2021.

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

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

For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0270.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0270; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Jeffrey Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; email: *Jeffrey.W.Palmer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA previously issued AD 2000–23–34, Amendment 39–12007 (65 FR 75595, December 4, 2000) (AD 2000–23–34), which applies to all Boeing Model 737–300, –400, and –500 series airplanes, and requires replacing the existing A/T computer with a new, improved A/T computer that included an asymmetric cruise thrust monitor.

On January 9, 2021, a Model 737–500 series airplane operated by Sriwijaya Air was involved in an accident on a flight from Jakarta, Indonesia. There were 62 fatalities. During the ongoing accident investigation, Boeing reported that a flap synchro wire failure may go undetected by the A/T computer on the affected airplanes. Further investigation has revealed that the design update for the A/T computer required by AD 2000–23–34 does not properly account for a possible latent failure of the flap position sensor, which is one data component needed to provide the logic necessary for the asymmetric cruise thrust monitor to operate. Failure of the asymmetric cruise thrust monitor to engage during a large thrust asymmetry

[6] *See* 49 U.S.C. 114, 44902, and 44903; *see* 49 CFR 1542.303, 1544.305, and 1546.105.

[7] *See, e.g.,* 49 U.S.C. 115.

[8] The Deputy Secretary of Homeland Security serves as chairman of the TSOB. DHS Delegation No. 7071.1, *Delegation to the Deputy Secretary to Chair the Transportation Security Oversight Board* (Apr. 2, 2007). The Deputy Secretary position is currently vacant and the duties of the position, including service as chairman of the TSOB, are being temporarily performed by senior DHS official David P. Pekoske.

[9] The TSOB previously reviewed and ratified TSA's SD regarding mandatory mask measures in the surface transportation sector. *See* 86 FR 13971 (published Mar. 12, 2021) regarding notification of TSOB ratification of TSA security directive 1582/84–21–01.

event could result in loss of control of the airplane. At this time, the preliminary data of the ongoing accident investigation shows that it is highly unlikely that the accident resulted from the latent failure of the flap synchro wire. However, the FAA has determined that the unsafe condition identified in this AD could exist or develop in Model 737–300, –400, and –500 series airplanes, and that this AD is therefore necessary to address the identified unsafe condition.

The FAA has confirmed that accomplishment of the applicable BITE test in the existing airplane maintenance manual (AMM) detects the flap synchro wire failure. This test is currently not required to be performed repetitively, leading to a potential latent failure if the test is not performed regularly, which will be required by this AD.

Model 737–100 and –200 series airplanes are not affected by this AD due to an A/T design difference that is not subject to the identified unsafe condition.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Multi-Operator Message MOM–MOM–21–0145–01B(R2), dated March 30, 2021. This service information specifies procedures for performing an A/T computer BITE test, ''A/T BITE TEST LRU INTERFACE,'' and corrective actions to repair defects. 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.

AD Requirements

This AD requires accomplishing the actions specified in the service information already described, except as discussed under ''Differences Between this AD and the Service Information.''

Differences Between This AD and the Service Information

Boeing Multi-Operator Message MOM–MOM–21–0145–01B(R2), dated March 30, 2021, specifies a compliance time of 250 flight hours for the initial BITE test. However, this AD requires the initial BITE test within 250 flight hours or 2 months after the effective date of this AD, whichever occurs first, to ensure that airplanes with low utilization rates are addressed in a timely manner.

Interim Action

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

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 failure of the asymmetric cruise thrust monitor to engage during a large thrust asymmetry event could result in loss of control 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 data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0270 and Project Identifier AD–2021–00352–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 Jeffrey Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; email: *Jeffrey.W.Palmer@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (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 143 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
BITE test	1 work-hour × $85 per hour = $85 per test	$0	$85 per test	$11,220 per test.

The FAA has received no definitive data on which to base the cost estimates for the on-condition corrective actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

2021–08–14 The Boeing Company: Amendment 39–21508; Docket No. FAA–2021–0270; Project Identifier AD–2021–00352–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 2, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto flight.

(e) Unsafe Condition

This AD was prompted by a flap synchro wire failure that may go undetected by the autothrottle (A/T) computer. The FAA is issuing this AD to address failure of the flap position sensor, which could result in failure of the asymmetric cruise thrust monitor to engage during a large thrust asymmetry event, and loss of control of the airplane.

(f) Compliance

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

(g) BITE Test

Within 250 flight hours or 2 months after the effective date of this AD, whichever occurs first: Perform the applicable A/T computer BITE (built-in test equipment) test, ''A/T BITE TEST LRU INTERFACE,'' and before further flight do all applicable corrective actions, in accordance with paragraphs 1. through 5. of Boeing Multi-Operator Message MOM–MOM–21–0145–01B(R2), dated March 30, 2021, except as provided in paragraph (h) of this AD. Repeat the test thereafter at intervals not to exceed 2,000 flight hours.

(h) Clarification of Service Information Specifications

Although paragraph 1. of Boeing Multi-Operator Message MOM–MOM–21–0145–01B(R2), dated March 30, 2021, specifies to prepare the airplane for BITE testing ''using the reference/A/, AMM 22–04–00 or 22–04–10, paragraph 3 and 4 as necessary,'' this AD does not require using that service information to accomplish those steps, but operators may refer to that information for guidance on the procedures.

(i) Reporting

Although Boeing Multi-Operator Message MOM–MOM–21–0145–01B(R2), dated March 30, 2021, specifies to report test results, this AD does not require any report.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Multi-Operator Message MOM–MOM–21–0145–01B(R1), dated March 23, 2021.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. Information may be emailed to *9-ANM-LAACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(l) Related Information

(1) For more information about this AD, contact Jeffrey Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; email: *Jeffrey.W.Palmer@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (4) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Boeing Multi-Operator Message MOM–MOM–21–0145–01B(R2), dated March 30, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial

Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on April 7, 2021.

Ross Landes,

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

[FR Doc. 2021–10562 Filed 5–14–21; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0092; Project Identifier MCAI–2020–01501–R; Amendment 39–21528; AD 2021–09–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2010–16–51, which applied to certain Eurocopter France (now Airbus Helicopters (Airbus)) Model SA330J helicopters. AD 2010–16–51 required inspecting for a gap between the main gearbox (MGB) oil cooling fan assembly (fan) rotor blade and the upper section of the guide vane bearing housing and depending on the results, replacing the two fan rotor shaft bearings with two airworthy bearings. This AD retains the requirements of AD 2010–16–51 and also requires installing improved MGB fan rotor shaft bearings and repetitively inspecting the new improved MGB fan rotor shaft bearings, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. AD 2010–16–51 was prompted by the separation of a fan rotor blade that caused puncture holes in the transmission deck. This new AD was prompted by the development of an improved MGB fan rotor shaft bearing design. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 22, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 22, 2021.

ADDRESSES: 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 material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0092.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0092; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mahmood Shah, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5538; email *Mahmood.g.shah@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0171, dated July 28, 2020 (EASA AD 2020–0171), to correct an unsafe condition for all Airbus Helicopters, Eurocopter, Eurocopter France, Aérospatiale, Sud Aviation Model SA 330 J helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2010–16–51, Amendment 39–16410 (75 FR 53857, September 2, 2010) (AD 2010–16–51). AD 2010–16–51 applied to Eurocopter France (now Airbus) Model SA330J helicopters. The NPRM published in the **Federal Register** on February 26, 2021 (86 FR 11657). The NPRM was prompted by the newly developed MGB fan rotor shaft bearing design. The NPRM proposed to continue to require the inspections required by AD 2010–16–51, as specified in EASA AD 2020–0171. The NPRM also proposed to require installing improved MGB fan rotor shaft bearings and repetitively inspecting the new improved MGB fan rotor shaft bearings, as specified in EASA AD 2020–0171.

The FAA is issuing this AD to prevent rotor burst of the MGB fan, damage to the hydraulic lines and flight controls, and subsequent loss of control of the helicopter. See EASA AD 2020–0171 for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed.

Related Service Information Under 1 CFR Part 51

For MGB fan rotor shaft bearings (both rear and front) part number (P/N) 704A33651114 (manufacturer P/N (MP/N) 205FFTX74K6–G33) and MGB fan rotor shaft bearings (both rear and front) P/N 704A33651268 (MP/N 594918), EASA AD 2020–0171 describes procedures for inspecting for play (a gap) between the MGB fan rotor blade and the upper section of the guide vane bearing housing. If there is play that does not meet the minimum requirement, EASA AD 2020–0171 requires replacing the affected MGB fan rotor shaft bearings with MGB fan rotor shaft bearings (both rear and front) P/N 704A33651268 (MP/N 594918).

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

Differences Between This AD and EASA AD 2020–0171

EASA AD 2020–0171 applies to all Model SA 330 J helicopters, whereas this AD applies to certain Model SA330J helicopters instead. EASA AD 2020–0171 refers to flight hours, whereas this AD uses hours time-in-service. EASA AD 2020–0171 requires inspecting for play, whereas this AD requires inspecting for a gap instead. EASA AD 2020–0171 requires returning certain parts, whereas this AD requires removing the parts from service instead. EASA AD 2020–0171 requires completing a response form, whereas this AD does not.

Interim Action

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

Costs of Compliance

The FAA estimates that this AD affects 15 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Inspecting for a gap between the MGB fan rotor blade and the upper section of the guide vane bearing housing takes about 2 work-hours for an estimated cost of $170 per helicopter and $2,550 for the U.S. fleet, per inspection cycle.

Replacing a set of two bearings takes about 6 work-hours and parts cost up to about $1,665 for an estimated cost of up to $2,175 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2010–16–51, Amendment 39–16410 (75 FR 53857, September 2, 2010); and

■ b. Adding the following new AD:

2021–09–14 Airbus Helicopters (Type Certificate Previously Held by Eurocopter France): Amendment 39–21528; Docket No. FAA–2021–0092; Project Identifier MCAI–2020–01501–R.

(a) Effective Date

This airworthiness directive (AD) is effective June 22, 2021.

(b) Affected Airworthiness Directives (ADs)

This AD removes AD 2010–16–51, Amendment 39–16410 (75 FR 53857, September 2, 2010).

(c) Applicability

This AD applies to Airbus Helicopters (type certificate previously held by Eurocopter France) Model SA330J helicopters, certificated in any category, with main gearbox (MGB) oil cooling fan (fan) rotor shaft bearings (both rear and front) part number (P/N) 704A33651114 (manufacturer P/N (MP/N) 205FFTX74K6–G33) or P/N 704A33651268 (MP/N 594918), installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 6322; Main Gearbox Oil Cooler.

(e) Reason

This AD was prompted by the development of an improved MGB fan rotor shaft bearing design. The FAA is issuing this AD to prevent rotor burst of the MGB fan, damage to the hydraulic lines and flight controls, and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0171, dated July 28, 2020 (EASA AD 2020–0171).

(h) Exceptions to EASA AD 2020–0171

(1) Where EASA AD 2020–0171 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0171 does not apply to this AD.

(3) Where EASA AD 2020–0171 refers to flight hours (FH), this AD requires using hours time-in-service.

(4) Where EASA AD 2020–0171 requires measuring for play, this AD requires measuring the gap between each MGB fan rotor blade and the upper section of the guide vane bearing housing.

(5) Where ''The ASB'' service information referenced in EASA AD 2020–0171 specifies to return certain parts to Airbus Helicopters, this AD requires removing those parts from service instead.

(6) While ''The ASB'' service information referenced in EASA AD 2020–0171 specifies completing the response form in Appendix 4, this AD does not contain that requirement.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0171 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(k) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

For more information about this AD, contact Mahmood Shah, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5538; email *Mahmood.g.shah@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0171, dated July 28, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0171, 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 service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0092.

(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 22, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–10393 Filed 5–17–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0020; Project Identifier MCAI–2020–01639–R; Amendment 39–21536; AD 2021–10–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–03–12 for certain Airbus Helicopters Model EC225LP helicopters. AD 2019–03–12 required repetitively inspecting, cleaning, and lubricating each life raft inflation cylinder percussion system bellcrank (bellcrank). This new AD continues to require the actions specified in AD 2019–03–12, and requires replacing any affected bellcrank with a serviceable bellcrank, which terminates the repetitive actions. This AD was prompted by reports of jammed bellcranks in the life raft jettison inflation cylinder percussion system. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective June 22, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 22, 2021.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0020.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov in* Docket No. FAA–2021–0020; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Union Aviation Safety Agency (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Blaine Williams, Aviation Safety Engineer, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; telephone 562–627–5371; email *blaine.williams@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0287, dated November 27, 2019 (EASA AD 2019–0287) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Helicopters Model EC225LP helicopters. EASA AD 2019–0287 supersedes EASA AD 2019–0102, dated May 9, 2019. EASA AD 2019–0102, dated May 9, 2019, superseded EASA AD 2016–0200, dated October 11, 2016, which prompted FAA AD 2019–03–12, Amendment 39–19564 (84 FR 8250, March 7, 2019) (AD 2019–03–12). You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0020.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–03–12. AD 2019–03–12 applied to certain Airbus Helicopters Model EC225LP helicopters. The NPRM published in the **Federal Register** on February 26, 2021 (86 FR 11659). The NPRM was prompted by reports of jammed bellcranks in the life raft inflation cylinder percussion system. The NPRM proposed to continue to require the actions specified in AD 2019–03–12, and to require replacing any affected bellcrank with a serviceable bellcrank, which would terminate the repetitive actions. The FAA is issuing this AD to address jammed bellcranks in the life raft jettison inflation cylinder percussion system. This condition could result in failure of a life raft to release in an emergency and subsequent injury to occupants. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA gave the public the opportunity to participate in developing this final rule, but the FAA did not receive any comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

editorial changes and updating paragraph (m)(1) of this AD. The FAA has determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Airbus Helicopters has issued Alert Service Bulletin EC225–25A211, Revision 1, dated October 23, 2019. This service information specifies procedures for replacing any affected life raft release bellcrank with a serviceable bellcrank. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

Airbus Helicopters has also issued Emergency Alert Service Bulletin No. 05A050, Revision 0, dated July 22, 2016; and Emergency Alert Service Bulletin No. 05A050, Revision 1, dated April 3, 2019. This service information specifies procedures for cleaning and lubricating each bellcrank and pivot link of the life raft inflation cylinder percussion system and removing any corrosion.

Differences Between This AD and the MCAI

EASA AD 2019–0287 requires replacing each affected bellcrank with a serviceable part within 6 months after the effective date of that AD. This AD requires replacing each affected bellcrank with a serviceable part within 6 months after the effective date of this AD, or before the next operation over water, whichever occurs first.

Costs of Compliance

The FAA estimates that this AD affects 28 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2019–03–12	16 work-hours × $85 per hour = $1,360	Minimal	$1,360	$38,080
New actions	4 work-hours × $85 per hour = $340	$1,646	1,986	55,608

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2019–03–12, Amendment 39–19564 (84 FR 8250, March 7, 2019); and

■ b. Adding the following new AD:

2021–10–03 Airbus Helicopters: Amendment 39–21536; Docket No. FAA–2021–0020; Project Identifier MCAI–2020–01639–R.

(a) Effective Date

This airworthiness directive (AD) is effective June 22, 2021.

(b) Affected ADs

This AD replaces AD 2019–03–12, Amendment 39–19564 (84 FR 8250, March 7, 2019) (AD 2019–03–12).

(c) Applicability

This AD applies to Airbus Helicopters Model EC225LP helicopters, all manufacturer serial numbers, certificated in any category, equipped with emergency life rafts installed in the multi-purpose sponsons.

(d) Subject

Joint Aircraft System Component (JASC) Code 2564, Life Raft.

(e) Reason

This AD was prompted by reports of jammed bellcranks in the life raft inflation cylinder percussion system. The FAA is issuing this AD to address jammed bellcranks in the life raft jettison inflation cylinder percussion system. This condition could result in failure of a life raft to release in an emergency and subsequent injury to occupants.

(f) Compliance

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

(g) Definitions

For the purposes of this AD, the definitions specified in paragraphs (g)(1) through (4) of this AD apply.

(1) Group 1: Helicopters that have an affected part installed.

(2) Group 2: Helicopters that do not have an affected part installed. A helicopter that embodies Airbus Helicopters Modification 07 28457 in production is a Group 2 helicopter, provided the helicopter remains in that configuration.

(3) Affected part: Life raft release bell cranks part number (P/N) 332A41–4396–20 (left-hand (LH) side) and P/N 332A41–4396–21 (right-hand (RH) side).

(4) Serviceable part: Life raft release bell cranks P/N 332A41–4396–22 (LH) and P/N 332A41–4396–23 (RH).

(h) Retained Repetitive Actions, With Specified Helicopter Group and New Note

This paragraph restates the requirements of paragraph (e) of AD 2019–03–12, with a specified helicopter group and new Note 1. For Group 1: Before further flight, and thereafter at intervals not to exceed 6 months:

(1) Clean each bellcrank and pivot link and inspect each bellcrank hole for corrosion. If there is any corrosion in a bellcrank hole:

(i) Remove the corrosion without exceeding a maximum depth of 0.1 millimeter (0.004 inch).

(ii) Clean each pivot link using 400-grain abrasive paper.

(iii) Apply corrosion protectant (Alodine 1200 or equivalent) to each bellcrank hole.

(2) Lubricate each bellcrank hole with grease before assembling the bellcrank.

Note 1 to paragraph (h): Airbus Helicopters Emergency Alert Service Bulletin No. 05A050, Revision 0, dated July 22, 2016; and Airbus Helicopters Emergency Alert Service Bulletin No. 05A050, Revision 1, dated April 3, 2019; specify procedures for cleaning and lubricating each bellcrank and pivot link of the life raft inflation cylinder percussion system and removing any corrosion.

(i) New Requirement of This AD: Bellcrank Replacement

For Group 1: Within 6 months after the effective date of this AD, or before the next operation over water, whichever occurs first, replace each affected bellcrank with a serviceable part, as defined in paragraph (g)(4) of this AD, in accordance with Paragraph 3.B.2. of the Accomplishment Instructions of Airbus Helicopters Alert Service Bulletin EC225–25A211, Revision 1, dated October 23, 2019; except where the service information specifies to remove and scrap certain parts, this AD requires removing those parts from service instead.

(j) Terminating Action for Repetitive Actions Required by Paragraph (h) of This AD

Accomplishment of the bellcrank replacement required by paragraph (i) of this AD is terminating action for the repetitive actions required by paragraph (h) of this AD for that helicopter only.

(k) Parts Installation Limitation

(1) For Group 1: After the replacement required by paragraph (i) of this AD is done, only a serviceable part, as defined in paragraph (g)(4) of this AD, is allowed to be installed on that helicopter.

(2) For Group 2: As of the effective date of this AD, only a serviceable part, as defined in paragraph (g)(4) of this AD, is allowed to be installed on any helicopter.

(l) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Union Aviation Safety Agency (EASA) AD 2019–0287, dated November 27, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0020.

(2) For more information about this AD, contact Blaine Williams, Aviation Safety Engineer, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; telephone 562–627–5371; email *blaine.williams@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(3) and (4) of this AD.

(o) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Alert Service Bulletin EC225–25A211, Revision 1, dated October 23, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

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

Issued on April 27, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–10397 Filed 5–17–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0344; Project Identifier MCAI–2021–00381–R; Amendment 39–21534; AD 2021–10–01]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. Model AW169 helicopters. This AD was prompted by false simultaneous in-flight disengagement of automatic flight control system (AFCS) channels 1 and 2. This AD requires temporarily revising the existing Rotorcraft Flight Manual (RFM) for your helicopter. This AD also requires installing an AFCS software upgrade and concurrently removing that RFM revision. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective June 2, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of June 2, 2021.

The FAA must receive comments on this AD by July 2, 2021.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0344.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0344; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0156, dated August 24, 2017 (EASA AD 2017–0156), to correct an unsafe condition for Leonardo S.p.A. (formerly Finmeccanica Helicopter Division, AgustaWestland) Model AW169 helicopters, all serial numbers, except those equipped with AFCS software part number (P/N) 6F2210AS0103 or later. EASA advises of false simultaneous in-flight disengagement of AFCS channels 1 and 2 that resulted from the activation of specific AFCS modes combined with the unavailability of hybrid ground speed data at take-off. Accordingly, EASA AD 2017–0156 requires temporarily amending the Limitations Section of the RFM, informing all flight crews, and thereafter, operating the helicopter accordingly. EASA AD 2017–0156 also requires installing AFCS software P/N 6F2210AS0103 and removing the temporary RFM revision. This condition, if not addressed, could result in temporary loss of control of the helicopter, possibly resulting in damage to the helicopter or injury to occupants.

EASA initially issued EASA AD 2017–0112 dated June 26, 2017 (EASA AD 2017–0112), to address this unsafe condition. EASA issued AD 2017–0156 to supersede EASA AD 2017–0112 to require installing the newly-developed AFCS software upgrade and removal of the temporary RFM revision.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Leonardo Helicopters Alert Service Bulletin No. 169–064, dated August 9, 2017. This service information specifies procedures for installing the new release of flight control computer software P/N 6F2210AS0103.

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.

AD Requirements

This AD requires temporarily revising the Limitations Section of the existing RFM for your helicopter to add AFCS mode limitations. This AD also requires installing an AFCS software upgrade and concurrently removing that RFM revision.

Differences Between This AD and the EASA AD

EASA AD 2017–0156 applies to Model AW169 helicopters, except those with AFCS software P/N 6F2210AS0103 or later installed; whereas this AD applies to Model AW169 helicopters with AFCS software P/N 6F2210AS0102 or previous versions installed instead. EASA AD 2017–0156 requires installing AFCS software P/N 6F2210AS0103 and removing the temporary RFM revision within 100 flight hours or 3 months, whichever occurs first after its effective date, whereas this AD requires those actions within 100 hours time-in-service after the effective date of this AD instead.

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. There are currently no helicopters with this type certificate affected by this AD on the U.S. Registry. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, for the foregoing reason(s), 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.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0344; Project Identifier MCAI–2021–00381–R'' 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 Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@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

The requirements of the Regulatory Flexibility Act (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 prior notice and comment, RFA analysis is not required.

Costs of Compliance

There are no costs of compliance with this AD because there are currently no helicopters with this type certificate affected by this AD on the U.S. Registry.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, 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.

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:

2021–10–01 Leonardo S.p.a.: Amendment 39–21534; Docket No. FAA–2021–0344; Project Identifier MCAI–2021–00381–R.

(a) Effective Date

This airworthiness directive (AD) is effective June 2, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AW169 helicopters, certificated in any category, with automatic flight control system (AFCS) software part number (P/N) 6F2210AS0102 or previous versions installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 2200, Auto Flight System.

(e) Unsafe Condition

This AD was prompted by false simultaneous in-flight disengagement of AFCS channels 1 and 2. The FAA is issuing this AD to address concurrent disengagement of those AFCS channels resulting from the activation of specific AFCS modes combined with the unavailability of hybrid ground speed data at take-off. The unsafe condition, if not addressed, could result in temporary loss of control of the helicopter and subsequent damage to the helicopter or injury to occupants.

(f) Compliance

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

(g) Required Actions

(1) Within 15 hours time-in-service (TIS) after the effective date of this AD, revise the Limitations Section of the existing Rotorcraft Flight Manual (RFM) for your helicopter by adding the information in Figure 1 to paragraph (g)(1) of this AD. Inserting a different document with information identical to the information in Figure 1 to paragraph (g)(1) of this AD is acceptable for compliance with the requirements of this paragraph. This action may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9(a)(1) through (4) and § 91.417(a)(2)(v). The record must be maintained as required by § 91.417, § 121.380, or § 135.439.

AFCS MODE LIMITATIONS

If "F" symbol is displayed next to groundspeed readout (GS) at the bottom of the IAS tape on PFD, APP/NAV AFCS modes must not be used when the navigation source is VOR/ILS/LOC. Therefore VOR navigation and VOR/ILS/LOC approaches must not be coupled to AFCS but are allowed if manually flown by the pilot.

NOTE

The "F" symbol displayed next to groundspeed readout (GS) is due to:

- ADAHRS/GPS degradation

or

- "DG" mode selection

In both cases the groundspeed (GS) data source is FMS instead of GPS.

Figure 1 to Paragraph (g)(1)

(2) Within 100 hours TIS after the effective date of this AD:

(i) Install AFCS software P/N 6F2210AS0103 by following Section 3., the Accomplishment Instructions, paragraph 3., of Leonardo Helicopters Alert Service Bulletin No. 169–064, dated August 9, 2017, and concurrently

(ii) Remove the RFM revision required by paragraph (g)(1) of this AD.

(h) Special Flight Permits

If AFCS software P/N 6F2210AS0102 or a previous version is installed, VOR navigation and VOR/ILS/LOC approaches coupled to AFCS are prohibited; VOR navigation and VOR/ILS/LOC approaches are allowed if manually flown by the pilot.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2017–0156, dated August 24, 2017. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2021–0344.

(k) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Alert Service Bulletin No. 169–064, dated August 9, 2017.

(ii) [Reserved]

(3) For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on April 26, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–10398 Filed 5–17–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Termination of Arrival Restrictions Applicable to Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the Republic of Guinea

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Announcement of termination of arrival restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security to terminate arrival restrictions applicable to flights to the United States carrying persons who have recently traveled from, or were otherwise present within, the Republic of Guinea. These arrival restrictions were initiated due to outbreaks of Ebola virus disease (EVD) in the Democratic Republic of the Congo

(DRC) and in the Republic of Guinea. These restrictions directed such flights to land only at a limited set of United States airports where the United States government had focused public health resources to implement enhanced public health measures.

DATES: The arrival restrictions applicable to flights to the United States carrying persons who have recently traveled from, or were otherwise present within, the Republic of Guinea are terminated as of 12:01 a.m. Eastern Daylight Time on May 14, 2021.

FOR FURTHER INFORMATION CONTACT: Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection at 202–286–8995.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 2021, the Secretary of Homeland Security (Secretary) announced arrival restrictions applicable to flights carrying persons who have recently traveled from, or were otherwise present within, the Democratic Republic of the Congo (DRC) or the Republic of Guinea, consistent with 6 U.S.C. 112(a), 19 U.S.C. 1433(c), and 19 CFR 122.32, in a **Federal Register** document titled ''Arrival Restrictions Applicable to Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the Democratic Republic of the Congo or the Republic of Guinea'' (86 FR 12534). On May 3, 2021, the Secretary terminated the arrival restrictions applicable to flights carrying persons who have recently traveled from, or were otherwise present within, the DRC in a **Federal Register** document titled ''Termination of Arrival Restrictions Applicable to Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the Democratic Republic of the Congo'' (86 FR 23277). However, the May 3, 2021 **Federal Register** notification did not terminate the arrival restrictions for flights carrying persons who have recently traveled from, or were otherwise present within, the Republic of Guinea because the most recent case of EVD in the Republic of Guinea was confirmed on April 3, 2021.

For the reasons set forth below, the Secretary has decided to terminate the arrival restrictions applicable to flights carrying persons who have recently traveled from, or were otherwise present within, the Republic of Guinea. These restrictions funnel relevant arriving air passengers to one of six designated airports of entry where the United States is implementing enhanced public health measures. Since April 3, 2021, there have been no new confirmed EVD cases reported in the Republic of Guinea and all contacts of cases that were being monitored for EVD have passed the 21-day incubation period. With no new hospitalized patients with EVD and no contacts of confirmed EVD cases still requiring monitoring, the potential risk for Ebola virus exposure in the Republic of Guinea has greatly diminished. Therefore, flight restrictions are no longer required for flights carrying persons who have recently traveled from, or were otherwise present within, the Republic of Guinea.

Notice of Termination of Arrival Restrictions Applicable to All Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the Republic of Guinea

Pursuant to 6 U.S.C. 112(a), 19 U.S.C. 1433(c), and 19 CFR 122.32, and effective as of 12:01 a.m. Eastern Daylight Time on May 14, 2021, for all affected flights arriving at a United States airport, I hereby terminate the arrival restrictions applicable to flights carrying persons who have recently traveled from, or were otherwise present within, the Republic of Guinea announced in the Arrival Restrictions document published at 86 FR 12534 (March 4, 2021).

Alejandro Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2021–10470 Filed 5–13–21; 4:15 pm]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0014]

RIN 1625–AA00

Safety Zones; Coast Guard Sector Ohio Valley Annual and Recurring Safety Zones Update

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

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and updating its safety zone regulations for annual events that take place in the Coast Guard Sector Ohio Valley area. This action is necessary to update the current list of recurring safety zones with revisions, additional events, and removal of events that no longer take place in the Sector Ohio Valley. When these safety zones are enforced, certain restrictions are placed on marine traffic in specified areas.

DATES: This rule is effective May 18, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov*, type USCG–2021–0014 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 Petty Officer Christopher Roble, Sector Ohio Valley, U.S. Coast Guard; telephone (502)-779–5336, email *SECOHV-WWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AOR Area of Responsibility
CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Captain of the Port Sector Ohio Valley (COTP) is amending 33 CFR 165.801 to update the table of annual fireworks displays and other events in Coast Guard Sector Ohio Valley Area of Responsibility (AOR). These events include air shows, fireworks displays, and other events requiring a safety zone.

On February 24, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled, ''Safety Zones; Coast Guard Sector Ohio Valley Annual and Recurring Safety Zones Update'' (86 FR 11198). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to those recurring safety zones. During the comment period that ended on March 26, 2021, no comments were received.

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 contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with these events.

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 Coast

Guard is amending and updating the safety zones under 33 CFR part 165 to include the most up to date list of recurring safety zones for events held on or around navigable waters within the Sector Ohio Valley AOR. These events include fireworks displays, air shows, and festivals. The current list in 33 CFR 165.801 requires amending to provide new information on existing safety zones and to include new safety zones expected to recur annually or biannually. Issuing individual regulations for each new safety zone, amendment of existing safety zones creates unnecessary administrative costs and burdens. This rulemaking reduces administrative overhead and provides the public with notice through publication in the **Federal Register** of the upcoming recurring safety zones. Based on the nature of these events, large numbers of participants and spectators, and event locations, the COTP has determined that the events listed in this rule could pose a risk to participants or waterways users if the normal vessel traffic were to interfere with the events. Possible hazards include risks of injury or death from near or actual contact among participant vessels and spectators or mariners traversing through the regulated area. This purpose of this rule is to ensure the safety of all waterway users, including event participants and spectators, during the scheduled events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published February 24, 2021. There are no changes in the regulatory text of this rule from the proposed rule on the NPRM.

This rule amends and updates part 165 or 33 CFR by revising the current table for Sector Ohio Valley, and by adding two new recurring safety zones as described in the NPRM. Vessels intending to transit the designated waterway through the safety zone will only be allowed to transit the area when the COTP, or a designated representative, has deemed it safe to do so or at the completion of the event.

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 size, location, and duration of the safety zones. These safety zones are limited in size and duration, and are usually positioned away from high vessel traffic areas. Moreover, the Coast Guard would issue a Broadcast Notices to Mariners, Local Notices to Mariners, and Marine Safety Information Broadcasts to inform the community of these safety zones.

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 zones 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. It is categorically excluded from further review under paragraph L of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination for each of the safety zones will be made available in the docket before the event. 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 AREAS 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. In § 165.801, revise table 1 to read as follows:

§ 165.801 Annual fireworks displays and other events in the Eighth Coast Guard District recurring safety zones.

* * * * *

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
1. 3 days—Third or Fourth weekend in April	Henderson Breakfast Lions Club Tri-Fest	Henderson, KY	Ohio River, Miles 802.5–805.5 (Kentucky).
2. Multiple days—April through November ...	Pittsburgh Pirates Season Fireworks	Pittsburgh, PA	Allegheny River, Miles 0.2–0.9 (Pennsylvania).
3. Multiple days—April through November ...	Cincinnati Reds Season Fireworks	Cincinnati, OH	Ohio River, Miles 470.1–470.4; extending 500 ft. from the State of Ohio shoreline (Ohio).
4. Multiple days—April through November ...	Pittsburgh Riverhounds Season Fireworks ..	Pittsburgh, PA	Monongahela River, Miles 0.22–0.77 (Pennsylvania).
5. 1 day—First week in May	Belterra Park Gaming Fireworks	Cincinnati, OH	Ohio River, Miles 460.0–462.0 (Ohio).
6. 3 days in May	US Rowing Southeast Youth Championship Regatta.	Oak Ridge, TN	Clinch River, Miles 48.5–52 (Tennessee).
7. 1 day—One Friday in May prior to memorial day.	Live on the Levee Memorial Day Fireworks/ City of Charleston.	Charleston, WV	Kanawha River, Mile 58.1–59.1 (West Virginia).
8. 1 day—Saturday before Memorial Day	Venture Outdoors Festival	Pittsburgh, PA	Allegheny River, Miles 0.0–0.25; Monongahela River, Miles 0.0–0.25 (Pennsylvania).
9. 3 days in June	CMA Festival	Nashville, TN	Cumberland River, Miles 190.7–191.1 extending 100 feet from the left descending bank (Tennessee)
10. 1 day in June	Cumberland River Compact/Nashville Splash Bash.	Nashville, TN	Cumberland River, Miles 189.7–192.1 (Tennessee).
11. 2 days—A weekend in June	Rice's Landing Riverfest	Rice's Landing, PA	Monongahela River, Miles 68.0–68.8 (Pennsylvania).
12. 2 days—Second Friday and Saturday in June.	City of Newport, KY/Italianfest	Newport, KY	Ohio River, Miles 468.6–471.0 (Kentucky and Ohio).
13. 1 day in June	Friends of the Festival, Inc./Riverbend Festival Fireworks.	Chattanooga, TN	Tennessee River, Miles 462.7–465.2 (Tennessee).
14. 1 day—Second or Third week of June ..	TriState Pottery Festival Fireworks	East Liverpool, OH	Ohio River, Miles 42.5–45.0 (Ohio).
15. 3 days—One of the last three weekends in June.	Hadi Shrine/Evansville Freedom Festival Air Show.	Evansville, IN	Ohio River, Miles 790.0–796.0 (Indiana).
16. 1 day—One weekend in June	West Virginia Symphony Orchestra/Symphony Sunday.	Charleston, WV	Kanawha River, Miles 59.5–60.5 (West Virginia).
17. One weekend in June	Alzheimer's Water Lantern Festival/IC Care	Wheeling, WV	Ohio River Mile 90.3–91.8.
18. 1 day—Last weekend in June or first weekend in July.	Riverview Park Independence Festival	Louisville, KY	Ohio River, Miles 617.5–620.5 (Kentucky).
19. 1 day—Last weekend in June or First weekend in July.	City of Point Pleasant/Point Pleasant Sternwheel Fireworks.	Point Pleasant, WV	Ohio River, Miles 265.2–266.2, Kanawha River Miles 0.0–0.5 (West Virginia).
20. 1 day—Last weekend in June or first weekend in July.	City of Aurora/Aurora Firecracker Festival ...	Aurora, IN	Ohio River, Mile 496.7; 1400 ft. radius from the Consolidated Grain Dock located along the State of Indiana shoreline at (Indiana and Kentucky).
21. 1 day—Last week of June or first week of July.	PUSH Beaver County/Beaver County Boom	Beaver, PA	Ohio River, Miles 25.2–25.6 (Pennsylvania).
22. 1 day—Last weekend in June or first week in July.	Evansville Freedom Celebration/4th of July Fireworks.	Evansville, IN	Ohio River, Miles 790.0–796.0 (Indiana).
23. 1 day—Last week in June or first week of July.	Newburgh Fireworks Display	Newburgh, IN	Ohio River, Miles 777.3–778.3 (Indiana).
24. 1 day—Last week in June or First week in July.	Rising Sun Fireworks	Rising Sun, IN	Ohio River, Miles 506.0–507.0 (Indiana).
25. 1 day—Weekend before the 4th of July	Kentucky Dam Marine/Kentucky Dam Marina Fireworks.	Gilbertsville, KY	350 foot radius, from the fireworks launch site, on the entrance jetties at Kentucky Dam Marina, on the Tennessee River at Mile Marker 23 (Kentucky).
26. 1 day in July	Town of Cumberland City/Lighting up the Cumberlands.	Cumberland City, TN	Cumberland River, Miles 103.0–105.5 (Tennessee).
27. 1 day in July	Chattanooga Presents/Pops on the River ...	Chattanooga, TN	Tennessee River, Miles 462.7–465.2 (Tennessee).

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
28. 1 day in July	Randy Boyd/Independence Celebration Fireworks Display.	Knoxville, TN	Tennessee River, Miles 625.0–628.0 (Tennessee).
29. 1 day—July 3rd	Moors Resort and Marina/Kentucky Lake Big Bang.	Gilbertsville, KY	600 foot radius, from the fireworks launch site, on the entrance jetty to Moors Resort and Marina, on the Tennessee River at mile marker 30.5. (Kentucky).
30. 1 day—3rd or 4th of July	City of Paducah, KY	Paducah, KY	Ohio River, Miles 934.0–936.0; Tennessee River, Miles 0.0–1.0 (Kentucky).
31. 1 day—3rd or 4th of July	City of Hickman, KY/Town Of Hickman Fireworks.	Hickman, KY	700 foot radius from GPS coordinate 36°34.5035 N, 089°11.919 W, in Hickman Harbor located at mile marker 921.5 on the Lower Mississippi River (Kentucky).
32. 1 day—July 4th	City of Knoxville/Knoxville Festival on the 4th.	Knoxville, TN	Tennessee River, Miles 646.3–648.7 (Tennessee).
33. 1 day in July	Nashville NCVC/Independence Celebration	Nashville, TN	Cumberland River, Miles 189.7–192.3 (Tennessee).
34. 1 day in July	Shoals Radio Group/Spirit of Freedom Fireworks.	Florence, AL	Tennessee River, Miles 254.5–257.4 (Alabama).
35. 1 day—4th of July (Rain date—July 5th)	Monongahela Area Chamber of Commerce/Monongahela 4th of July Celebration.	Monongahela, PA	Monongahela River, Milse 032.0–033.0 (Pennsylvania).
36. 1 day—July 4th	Cities of Cincinnati, OH and Newport, KY/July 4th Fireworks.	Newport, KY	Ohio River, Miles 469.6–470.2 (Kentucky and Ohio).
37. 1 day—July 4th	Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration.	Wellsburg, WV	Ohio River, Miles 73.5–74.5 (West Virginia).
38. 1 day—week of July 4th	Wheeling Symphony fireworks	Wheeling, WV	Ohio River, Miles 90–92 (West Virginia).
39. 1 day—First week or weekend in July	Summer Motions Inc./Summer Motion	Ashland, KY	Ohio River, Miles 322.1–323.1 (Kentucky).
40. 1 day—week of July 4th	Chester Fireworks	Chester, WV	Ohio River mile 42.0–44.0 (West Virginia).
41. 1 day—First week of July	Toronto 4th of July Fireworks	Toronto, OH	Ohio River, Mile 58.2–58.8 (Ohio).
42. 1 day—First week of July	Cincinnati Symphony Orchestra	Cincinnati, OH	Ohio River, Miles 460.0–462.0 (Ohio).
43. 1 day—First weekend or week in July	Queen's Landing Fireworks	Greenup, KY	Ohio River, Miles 339.3–340.3 (West Virginia).
44. 1 day—First week or weekend in July	Gallia County Chamber of Commerce/Gallipolis River Recreation Festival.	Gallipolis, OH	Ohio River, Miles 269.5–270.5 (Ohio).
45. 1 day—First week or weekend in July	Kindred Communications/Dawg Dazzle	Huntington, WV	Ohio River, Miles 307.8–308.8 (West Virginia).
46. 1 day—First week or weekend in July	Greenup City	Greenup, KY	Ohio River, Miles 335.2–336.2 (Kentucky).
47. 1 day—First week or weekend in July	Middleport Community Association	Middleport, OH	Ohio River, Miles 251.5–252.5 (Ohio).
48. 1 day—First week or weekend in July	People for the Point Party in the Park	South Point, OH	Ohio River, Miles 317–318 (Ohio).
49. 1 day—One of the first two weekends in July.	City of Bellevue, KY/Bellevue Beach Park Concert Fireworks.	Bellevue, KY	Ohio River, Miles468.2–469.2 (Kentucky & Ohio).
50. 1 day—First Week of July	Pittsburgh 4th of July Celebration	Pittsburgh, PA	Ohio River, Miles 0.0–0.5, Allegheny River, Miles 0.0–0.5, and Monongahela River, Miles 0.0–0.5 (Pennsylvania).
51. 1 day—First week or weekend in July	City of Charleston/City of Charleston Independence Day Celebration.	Charleston, WV	Kanawha River, Miles 58.1–59.1 (West Virginia).
52. 1 day—First week or weekend in July	Portsmouth River Days	Portsmouth, OH	Ohio River, Miles 355.5–357.0 (Ohio).
53. 1 day—During the first week of July	Louisville Bats Baseball Club/Louisville Bats Firework Show.	Louisville, KY	Ohio River, Miles 602.0–605.0 (Kentucky).
54. 1 day—During the first week of July	Waterfront Independence Festival/Louisville Orchestra Waterfront 4th.	Louisville, KY	Ohio River, Miles 602.0–605.0 (Kentucky).
55. 1 day—During the first week of July	Celebration of the American Spirit Fireworks/All American 4th of July.	Owensboro, KY	Ohio River, Miles 754.0–760.0 (Kentucky).
56. 1 day—During the first week of July	Riverfront Independence Festival Fireworks	New Albany, IN	Ohio River, Miles 606.5–609.6 (Indiana).
57. 1 day in July	Grand Harbor Marina/Grand Harbor Marina July 4th Celebration.	Counce, TN	Tennessee-Tombigbee Waterway, Miles 448.5–451.0 (Tennessee).
58. 1 night in July	Steubenville fireworks	Steubenville, OH	Ohio River Mile 67.5- 68.5
59. 1 day—During the first two weeks of July.	City of Maysville Fireworks	Maysville, KY	Ohio River, Miles 408–409 (Kentucky).
60. 1 day—One of the first two weekends in July.	Madison Regatta, Inc./Madison Regatta	Madison, IN	Ohio River, Miles 554.0–561.0 (Indiana).
61. 1 day—Third Saturday in July	Pittsburgh Irish Rowing Club/St. Brendan's Cup Currach Regatta.	Pittsburgh, PA	Ohio River, Miles 7.0–9.0 (Pennsylvania).
62. 1 day—Third or fourth week in July	Upper Ohio Valley Italian Heritage Festival/Upper Ohio Valley Italian Heritage Festival Fireworks.	Wheeling, WV	Ohio River, Miles 90.0–90.5 (West Virginia).
63. 1 day—Saturday Third or Fourth full week of July (Rain date—following Sunday).	Oakmont Yacht Club/Oakmont Yacht Club Fireworks.	Oakmont, PA	Allegheny River, Miles 12.0–12.5 (Pennsylvania).
64. 2 days—One weekend in July	Marietta Riverfront Roar Fireworks	Marietta, OH	Ohio River, Miles 171.6–172.6 (Ohio).
65. 1 Day in July	Three Rivers Regatta	Knoxville, TN	Tennessee River, Miles 642–653 (Tennessee).
66. 1 day—Last weekend in July or first weekend in August.	Fort Armstrong Folk Music Festival	Kittanning, PA	Allegheny River, Mile 45.1–45.5 (Pennsylvania).
67. 1 day—First week of August	Kittaning Folk Festival	Kittanning, PA	Allegheny River, Miles 44.0–46.0 (Pennsylvania).
68. 1 day—First week in August	Gliers Goetta Fest LLC	Newport, KY	Ohio River, Miles 469.0–471.0.
69. 1 day—First or second week of August	Bellaire All-American Days	Bellaire, OH	Ohio River, Miles 93.5–94.5 (Ohio).
70. 1 day—Second full week of August	PA FOB Fireworks Display	Pittsburgh, PA	Allegheny River, Miles 0.8–1.0 (Pennsylvania).

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
71. 1 day—Second Saturday in August	Guyasuta Days Festival/Borough of Sharpsburg.	Pittsburgh, PA	Allegheny River, Miles 005.5–006.0 (Pennsylvania).
72. 1 day—In the Month of August	Pittsburgh Foundation/Bob O'Connor Cookie Cruise.	Pittsburgh, PA	Ohio River, Mile 0.0–0.5 (Pennsylvania).
73. 1 day—Third week of August	Beaver River Regatta Fireworks	Beaver, PA	Ohio River, Miles 25.2–25.8 (Pennsylvania).
74. 1 day—One weekend in August	Parkersburg Homecoming Festival-Fireworks.	Parkersburg, WV	Ohio River, Miles 183.5–185.5 (West Virginia).
75. 1 day—One weekend in August	Ravenswood River Festival	Ravenswood, WV	Ohio River, Miles 220–221 (West Virginia).
76. 1 day—The second or third weekend of August.	Green Turtle Bay Resort/Grand Rivers Marina Day.	Grand Rivers, KY	420 foot radius, from the fireworks launch site, at the entrance to Green Turtle Bay Resort, on the Cumberland River at mile marker 31.5. (Kentucky).
77. 1 day—last 2 weekends in August/first week of September.	Wheeling Dragon Boat Race	Wheeling, WV	Ohio River, Miles 90.4–91.5 (West Virginia).
78. Sunday, Monday, or Thursday from August through February.	Pittsburgh Steelers Fireworks	Pittsburgh, PA	Allegheny River, Miles 0.0–0.25, Ohio River, Miles 0.0–0.1, Monongahela River, Miles 0.0–0.1. (Pennsylvania).
79. 1 day—Labor day	Portsmouth Labor Day Fireworks/Hamburg Fireworks.	Portsmouth, OH	Ohio River, Mile 355.8–356.8 (Ohio)
80. 1 day—one weekend before Labor Day	Riverfest/Riverfest Inc	Nitro, WV	Kanawha River, Miles 43.1–44.2 (West Virginia).
81. 2 days—Sunday before Labor Day and Labor Day.	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.	Cincinnati, OH	Ohio River, Miles 469.2–470.5 (Kentucky and Ohio) and Licking River, Miles 0.0–3.0 (Kentucky).
82. 1 day—Labor Day or first week of September.	Labor Day Fireworks Show	Marmet, WV	Kanawha River, Miles 67.5–68 (West Virginia).
83. 1 day in September	Nashville Symphony/Concert Fireworks	Nashville, TN	Cumberland River, Miles 190.1–192.3 (Tennessee).
84. 1 day—Second weekend in September	City of Clarksville/Clarksville Riverfest	Clarksville, TN	Cumberland River, Miles 124.5–127.0 (Tennessee).
85. 3 days—Second or third week in September.	Wheeling Heritage Port Sternwheel Festival Foundation/Wheeling Heritage Port Sternwheel Festival.	Wheeling, WV	Ohio River, Miles 90.2–90.7 (West Virginia).
86. 1 day—One weekend in September	Boomtown Days—Fireworks	Nitro, WV	Kanawha River, Miles 43.1–44.2 (West Virginia).
87. 1 day—One weekend in September	Ohio River Sternwheel Festival Committee fireworks.	Marietta, OH	Ohio River, Miles 171.5–172.5 (Ohio).
88. 1 day—One weekend in September	Tribute to the River	Point Pleasant, WV	Ohio River, Miles 264.6–265.6 (West Virginia).
89. 1 day—One weekend in September	Aurora Fireworks	Aurora, IN	Ohio River, Mile 496.3–497.3 (Ohio).
90. 1 day—Last two weekends in September.	Cabana on the River	Cincinnati, OH	Ohio River, Mile 483.2–484.2 (Ohio).
91. Multiple days—September through January.	University of Pittsburgh Athletic Department/University of Pittsburgh Fireworks.	Pittsburgh, PA	Ohio River, Miles 0.0–0.1, Monongahela River, Miles 0.0–0.1, Allegheny River, Miles 0.0–0.25 (Pennsylvania).
92. 1 day—First three weeks of October	Leukemia & Lymphoma Society/Light the Night.	Pittsburgh, PA	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
93. 1 day in October	Leukemia and Lymphoma Society/Light the Night Walk Fireworks.	Nashville, TN	Cumberland River, Miles 189.7–192.1 (Tennessee).
94. 1 day—First two weeks in October	Yeatman's Fireworks	Cincinnati, OH	Ohio River, Miles 469.0–470.5 (Ohio).
95. 1 day in October	Outdoor Chattanooga/Swim the Suck	Chattanooga, TN	Tennessee River, Miles 452.0–454.5 (Tennessee).
96. 1 day in October	Chattajack	Chattanooga, TN	Tennessee River, Miles 462.7–465.5 (Tennessee).
97. 1 day—One weekend in October	West Virginia Motor Car Festival	Charleston, WV	Kanawha River, Miles 58–59 (West Virginia).
98. 2 days—One of the last three weekends in October.	Monster Pumpkin Festival	Pittsburgh, PA	Allegheny River, Mile 0.0–0.25 (Pennsylvania).
99. 1 day—Friday before Thanksgiving	Pittsburgh Downtown Partnership/Light Up Night.	Pittsburgh, PA	Allegheny River, Miles 0.0–1.0 (Pennsylvania).
100. 1 day—Friday before Thanksgiving	Kittanning Light Up Night Firework Display	Kittanning, PA	Allegheny River, Miles 44.5–45.5 (Pennsylvania).
101. 1 day—Friday before Thanksgiving	Santa Spectacular/Light up Night	Pittsburgh, PA	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
102. 1 day—Friday before Thanksgiving	Monongahela Holiday Show	Monongahela, PA	Ohio River, Miles 31.5–32.5 (Pennsylvania).
103. 1 day in November	Friends of the Festival/Cheer at the Pier	Chattanooga, TN	Tennessee River, Miles 462.7–465.2 (Tennessee).
104. 1 day—Third week of November	Gallipolis in Lights	Gallipolis, OH	Ohio River, Miles 269.2–270 (Ohio).
105. 1 day—December 31	Pittsburgh Cultural Trust/Highmark First Night Pittsburgh.	Pittsburgh, PA	Allegheny River, Miles 0.5–1.0 (Pennsylvania).
106. 7 days—Scheduled home games	University of Tennessee/UT Football Fireworks.	Knoxville, TN	Tennessee River, Miles 645.6–648.3 (Tennessee).

* * * * *

Dated: May 13, 2021.

A.M. Beach,

Captain, U. S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2021–10464 Filed 5–17–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[EPA–HQ–OA–2020–0128, FRL–10024–07–OP]

RIN 2010–AA15

EPA Guidance; Administrative Procedures for Issuance and Public Petitions; Rescission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; rescission of regulations.

SUMMARY: In accordance with the Presidential directive of January 20, 2021, ''Revocation of Certain Executive Orders Concerning Federal Regulation,'' the Environmental Protection Agency (EPA) is rescinding its October 19, 2020, final rule establishing administrative procedures for issuing Agency guidance documents.

DATES: This final rule is effective on May 18, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OA–2020–0128. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov*. For information on the EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Sharon Cooperstein, Policy and Regulatory Analysis Division, Office of Regulatory Policy and Management (Mail Code 1803A), Environmental Protection Agency, 1200 Pennsylvania Avenue Northwest, Washington, DC 20460; telephone number: 202–564–7051; email address: *cooperstein.sharon@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. What action is the Agency taking?

In accordance with E.O. 13992, ''Revocation of Certain Executive Orders Concerning Federal Regulation,'' issued by President Biden on January 20, 2021 (86 FR 7049, January 25, 2021), the EPA is rescinding the final rule (85 FR 66230, October 19, 2020) that established the procedures and requirements regarding the issuance, revision, and withdrawal of guidance documents. The prior final rule was promulgated to implement E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (84 FR 55235, October 15, 2019).

B. What is the Agency's authority for taking this action?

The revisions to the EPA's policies and requirements surrounding guidance are matters of agency organization, procedure, or practice that lack the force and effect of law. Accordingly, the EPA is not required to engage in a notice and comment process to issue or revise internal procedures under the Administrative Procedure Act (APA). See 5 U.S.C. 553(b)(3)(A), which provides that an agency may issue interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice without providing notice and an opportunity for public comment. The EPA is providing an immediate effective date for this rulemaking because it is procedural rather than substantive. The APA's requirement, 5 U.S.C. 553(d), that substantive rules not be effective until at least 30 days after publication in the **Federal Register** is inapplicable because this rulemaking is procedural.

II. Background

On October 9, 2019, President Trump issued E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' The now revoked E.O. 13891 provided a specific definition of guidance documents and required Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents, among other actions. On October 19, 2020, the EPA published a final rule consistent with E.O. 13891. The final rule, codified at 40 CFR part 2, subpart D, established the EPA's policy and internal procedures for issuing, modifying, withdrawing, and using guidance documents; making guidance documents available to the public; and receiving and responding to petitions about guidance documents (85 FR 66230).

On January 20, 2021, President Biden issued E.O. 13992, ''Revocation of Certain Executive Orders Concerning Federal Regulation,'' which revoked E.O. 13891. E.O. 13992 states that it is the policy of the Administration ''to use available tools to confront the urgent challenges facing the Nation, including the coronavirus disease 2019 (COVID–19) pandemic, economic recovery, racial justice, and climate change. To tackle these challenges effectively, executive departments and agencies (agencies) must be equipped with the flexibility to use robust regulatory action to address national priorities. This order revokes harmful policies and directives that threaten to frustrate the Federal Government's ability to confront these problems, and empowers agencies to use appropriate regulatory tools to achieve these goals.'' Section 3 of E.O. 13992 directs agencies to take steps to rescind any orders, rules, regulations, guidelines or policies, or portions thereof, implementing or enforcing the revoked Executive orders.

III. Discussion

After consideration and review, the EPA has concluded that the internal rule on guidance deprives the EPA of necessary flexibility in determining when and how best to issue public guidance based on particular facts and circumstances, and unduly restricts the EPA's ability to provide timely guidance on which the public can confidently rely. Therefore, in accordance with E.O. 13992, the EPA is issuing this final rule to rescind the subpart D regulations.

The EPA's stated purpose in issuing subpart D was to promote transparency and public involvement in the development and amendment of EPA guidance documents. The EPA notes, however, that the Agency has historically employed procedures for public transparency and involvement in the development of all Agency actions, including guidance, and will continue these practices. The EPA will continue to make Agency guidance available to the public on the Agency's website at *https://www.epa.gov*. In addition, the EPA will comply with all statutory obligations pertaining to posting documents for public accessibility. The EPA will also continue its practice, as appropriate, of soliciting stakeholder input on guidance of significant stakeholder and public interest. Consistent with the APA, stakeholders may still petition the EPA at any time regarding our regulatory programs, including requests to issue, amend, or repeal EPA guidance, by contacting the

EPA program office or regional office that is responsible for administering the area of stakeholder interest. Finally, the EPA notes that guidance is non-binding and does not have the force and effect of law. Accordingly, the EPA will continue to include in all guidance a disclaimer that the guidance is non-binding. Considering these practices regarding guidance, the EPA believes that rescinding the subpart D regulations will restore the flexibilities needed effectively to address the challenges listed in E.O. 13992 and to otherwise meet the Agency's statutory duties.

Therefore, in accordance with E.O. 13992 and for the reasons stated above, the EPA is rescinding its internal agency procedures for issuing guidance documents codified at 40 CFR part 2, subpart D.

IV. Statutory and Executive Orders Reviews

Additional information about these statues and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders*.

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

This action is exempt from review by the Office of Management and Budget (OMB) because it is a rule of agency procedure and practice and is limited to agency management.

B. Paperwork Reduction Act (PRA)

This action does not contain any information collection activities and therefore does not impose an information collection burden under the PRA.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule pertains to agency management or personnel, which the APA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children. Per the definition of ''covered regulatory action'' in section 2–202 of Executive Order 13891 and because this action does not concern an environmental health risk or safety risk, it is not subject to Executive Order 13045.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a procedural rule and does not have any impact on human health or the environment.

K. Congressional Review Act

This rule is exempt from the CRA because it is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 40 CFR Part 2

Environmental protection, Administrative practice and procedure, Organization and functions (Government agencies).

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency amends 40 CFR part 2 as follows:

PART 2—PUBLIC INFORMATION

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

Authority: 5 U.S.C. 552, 552a, 553; 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717.

Subpart D [Removed]

■ 2. Remove subpart D, consisting of §§ 2.501 through 2.507.

[FR Doc. 2021–10269 Filed 5–17–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2021–0171; FRL–10023–93–Region 7]

Air Plan Approval; Nebraska; Revisions to Title 115 of the Nebraska Administrative Code; Rules of Practice and Procedure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the State Implementation Plan (SIP) submitted by the State of Nebraska on September 24, 2020. This final action will amend the SIP to revise the Nebraska Administrative Code ''Nebraska Rules of Practice and Procedure.'' These rules describe the procedures the Nebraska Department of Environment and Energy (NDEE), formerly the Nebraska Department of Environmental Quality (NDEQ), will follow for proceedings under the Administrative Procedure Act. These proceedings include contested cases, rulemaking petitions, and declaratory rulings among others. The revisions consolidate five chapters into a single chapter by removing duplicative language and incorporating by reference model rules of agency procedure promulgated by the Attorney General for agency use in accordance with the Administrative Procedure Act.

The revisions also update language; renumber chapters; and make minor wording changes. The changes do not substantively change any existing statutory or regulatory requirement or impact the stringency of the SIP or air quality, do not revise emission limits or procedures, nor do they impact the State's ability to attain or maintain the National Ambient Air Quality Standards.

DATES: This final rule is effective on June 17, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2021–0171. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7714; email address: *stone.william@epa.gov.*

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

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II. Have the requirements for approval of a SIP revision been met?
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I. What is being addressed in this document?

EPA is amending Nebraska's SIP to include revisions to title 115 of the Nebraska Administrative Code. The EPA is approving revisions to the Nebraska SIP received on September 24, 2020. The revisions are to Title 115—Nebraska Rules of Practice and Procedure. These revisions are described in detail in the technical support document (TSD) included in the docket for this action. The EPA solicited comments on the proposed revision to Nebraska's SIP, and received no comments.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice of the revisions from February 28, 2019, to April 2, 2019, and held a public hearing on April 3, 2019. The state received no comments. As explained in more detail in the TSD which is part of this docket, the SIP revision submission meets the substantive requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

III. What action is the EPA taking?

The EPA is taking final action to amend the Nebraska SIP by approving the State's request to revise Title 115—Nebraska Rules of Practice and Procedure. Approval of these revisions will ensure consistency between state and federally-approved rules. The EPA has determined that these changes will not adversely impact air quality.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

[1] 62 FR 27968, May 22, 1997.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 11, 2021.

Edward H. Chu,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart CC—Nebraska

■ 2. In § 52.1420, the table in paragraph (c) is amended by:

■ a. Revising the entries for ''115–1'', ''115–2'', and ''115–3''; and

■ b. Removing the entries for ''115–4'', ''115–5'', ''115–6'', ''115–7'', ''115–8'', ''115–9'', and ''115–10''.

The revisions read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA Department of Environmental Quality				
*	*	*	*	*
Title 115—Rules of Practice and Procedure				
115–1	Adoption of Model Rules	6/24/2019	5/18/2021, [insert **Federal Register** citation].	
115–2	Confidentiality for Trade Secrets.	6/24/2019	5/18/2021, [insert **Federal Register** citation].	
115–3	Public Hearings	6/24/2019	5/18/2021, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2021–10360 Filed 5–17–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0155; FRL–10023–33]

C10–23 Alkyl Group-Containing Alkali-Soluble Acrylic Emulsion Polymer; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of C10–23 alkyl group-containing alkali-soluble acrylic emulsion polymer; minimum number average molecular weight 29,000 Daltons when used as an inert ingredient in a pesticide chemical formulation. Ag-Chem Consulting LLC on behalf of Corbet Scientific LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of C10–23 alkyl group-containing alkali-soluble acrylic emulsion polymer on food or feed commodities.

DATES: This regulation is effective May 18, 2021. Objections and requests for hearings must be received on or before July 19, 2021, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2021–0155. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through

Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0155 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before July 19, 2021. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0155, by one of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of March 22, 2021 (86 FR 15162) (FRL–10021–44), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11496) filed by Ag-Chem Consulting LLC (12644 Chapel Rd., Clifton, VA 20124) on behalf of Corbet Scientific LLC, (Route 100, Briarcliff Manor, NY 10510). The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of C10–23 alkyl group-containing alkali-soluble acrylic emulsion polymer; CAS Reg. No. 174127–24–3. That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the

variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF3- or longer chain length as listed in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the following exemption criteria: Specified in 40 CFR 723.250(e):

The polymer's number average MW is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer is 29,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer to share a common mechanism of toxicity with any other substances, and C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer.

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer.

IX. Conclusion

Accordingly, EPA finds that exempting residues of C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes, or otherwise have any unique impacts on local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 12, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, amend the table by adding in alphnumerical order the polymer ''C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer, minimum number average molecular weight (in amu), 29,000 Daltons'' to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
C10-23 alkyl group-containing alkali-soluble acrylic emulsion polymer, minimum number average molecular weight (in amu), 29,000 Daltons	174127–24–3
* * * * * * *	

[FR Doc. 2021–10403 Filed 5–17–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 405

[CMS–3372–F2]

RIN 0938–AT88

Medicare Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of ''Reasonable and Necessary''; Delay of Effective Date

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule delays the effective date of the final rule titled, ''Medicare Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of 'Reasonable and Necessary' '' published in the January 14, 2021 **Federal Register**.

DATES: As of May 14, 2021, the effective date of the final rule amending 42 CFR part 405, published at 86 FR 2987, January 14, 2021, and delayed at 86 FR 14542, March 17, 2021, is further delayed until December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Lori Ashby at (410)–786–6322 or *MCIT@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

In the January 14, 2021 **Federal Register**, we published a final rule titled ''Medicare Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of 'Reasonable and Necessary' '' (86 FR 2987) (hereinafter referred to as MCIT/R&N final rule). The January 2021 final rule established a Medicare coverage pathway to provide Medicare beneficiaries nationwide with faster access to new, innovative medical devices designated as breakthrough by the Food and Drug Administration (FDA). Under the final rule as currently written, MCIT would result in 4 years of national Medicare coverage starting on the date of FDA market authorization or a manufacturer chosen date within 2 years thereafter. The MCIT/R&N final rule would also implement regulatory standards to be used in making reasonable and necessary determinations under section 1862(a)(1)(A) of the Social Security Act (the Act) for items and services that are furnished under Medicare Parts A and B.

B. March 17, 2021 Interim Final Rule (IFC)

In response to the January 20, 2021 memorandum from the Assistant to the President and Chief of Staff titled ''Regulatory Freeze Pending Review'' (''Regulatory Freeze Memorandum'') (86 FR 7424, January 28, 2021) and guidance on implementation of the memorandum issued by the Office of Management and Budget (OMB) in Memorandum M–21–14 dated January 20, 2021, we determined that a 60-day delay of the effective date of the MCIT/R&N final rule was appropriate to ensure that: (1) The rulemaking process was procedurally adequate; (2) the agency properly considered all relevant facts; (3) the agency considered statutory or other legal obligations; (4) the agency had reasonable judgment about the legally relevant policy considerations; and (5) the agency adequately considered public comments objecting to certain elements of the rule, including whether interested parties had fair opportunities to present contrary facts and arguments. Therefore, in an interim final rule that took effect on March 12, 2021, and appeared in the March 17, 2021 **Federal Register** (86 FR 14542), we (1) delayed the MCIT/R&N final rule effective date until May 15, 2021 (that is, 60 days after the original effective date of March 15, 2021); and (2) opened a 30-day public comment period on the facts, law, and policy underlying the MCIT/R&N final rule.

C. Review of Public Comments on the Delay of the MCIT/R&N Final Rule

We received approximately 215 timely pieces of correspondence in response to the interim final rule delaying the effective date of the MCIT/R&N final rule.

In this section of this final rule, we summarize our response to comments on the delay of the MCIT/R&N final rule. To the extent applicable, we intend to also consider these comments for future rulemaking.

Comment: Some manufacturers, in particular those with FDA designated breakthrough devices that have been market authorized, as well as the industry groups representing them commented that the MCIT/R&N final rule should be implemented without further delay. Although they acknowledged certain operational issues remain, specifically coding and payment for applicable devices and/or the services in which they are used, these commenters suggested those issues could be overcome by adapting existing processes such as inpatient new technology add on payment (NTAP) and outpatient hospital transitional pass-through payment to determine coding and payment, at least when these devices are used in the hospital setting. These commenters also expressed that they believe patient safety provisions in the final rule are sufficient to protect beneficiaries.

Other manufacturers that have FDA breakthrough designated devices but generally have yet to receive market authorization were supportive of a MCIT policy that would be more comprehensive and that includes specified guidance and expedited processes for benefit category determination, coding, and payment. These manufacturers support a delay of the MCIT/R&N final rule to the extent that such a delay would lead to a more comprehensive policy than the one that would be effective in May 2021.

Response: The current MCIT/R&N final rule solely relates to coverage of certain devices under Medicare; it does not establish a benefit category determination (BCD), medical coding, nor payment rates for any devices. While we recognize that some commenters support a different policy that would address benefit category determinations, coding, and payment, in addition to coverage, the MCIT/R&N final rule was not designed to address factors beyond Medicare coverage. Further, while the rule eliminates coverage uncertainty early after FDA market authorization for those devices with a clear benefit category, the rule did not directly address the operational issues, such as how the agency would establish coding and payment.

Comment: Several individual physicians and members of the public submitted comments supporting implementation of the MCIT/R&N final rule given the promise of breakthrough devices for their specialties or disease states of concern: Chronic obstructive pulmonary disease (COPD), prostate care, heart failure, stroke, opioid use disorder, oncology, and sleep disorders. On the other hand, some commenters suggested that the final MCIT/R&N rule provided automatic coverage for breakthrough devices without adequate evidentiary support.

Response: We are aware that breakthrough devices span numerous clinical specialties. We note that MCIT would be one of several coverage pathways (that is, claim-by-claim adjudication, local coverage, National Coverage Determination (NCD)) for breakthrough devices. Even without the MCIT/R&N final rule in effect, a review of claims data showed that breakthrough devices have received and are receiving Medicare coverage when medically

necessary. CMS reviewed fee-for-service claims data for several recent market-authorized breakthrough devices. The majority of the FDA market authorized breakthrough devices that would have been eligible for the MCIT pathway were already paid through an existing mechanism or were predominantly directed to a pediatric population. Of those that would be separately payable by Medicare on a claim-by-claim basis, the reviewed devices, were covered and paid under the applicable Medicare payment system.

Regarding commenters' concerns about automatic coverage without evidentiary support, we share commenters' concerns that guaranteeing coverage for all breakthrough devices receiving market-authorization for any Medicare patient with possibly minimal or no evidence on the Medicare population and no requirement to develop evidence on the Medicare population could be problematic in ensuring these devices are demonstrating value and do not have additional risks for Medicare beneficiaries. For example, a breakthrough device may only be beneficial in a subset of the Medicare population or when used only by specialized clinicians to ensure benefit. Without additional clinical evidence on the device's clinical utility for the Medicare population, it is challenging to determine appropriate coverage of these newly market-authorized devices.

Comment: Multiple stakeholders (manufacturers, physicians, associations) commented that CMS should modify the MCIT policy in some way. A substantial number of comments from a variety of stakeholders expressed evidentiary concerns with MCIT as currently designed, including that the current MCIT/R&N final rule's pathway establishes an open-ended coverage commitment for all breakthrough devices without demonstrating a health benefit in the Medicare population. Additionally, commenters were concerned that the current MCIT/R&N final rule does not specify, nor can it require, coverage criteria beyond the FDA indication(s) for use, and that evidence development under MCIT is voluntary, and narrowing coverage after MCIT expires will be challenging for devices that do not have a documented, proven benefit for Medicare patients. Many of these stakeholders recommend that CMS leverage or broaden the existing coverage with evidence development (CED) pathway to provide more timely and appropriate access to new technologies. These commenters encouraged CMS to require post market studies and data collection as part of MCIT to ensure that beneficiaries are gaining access to new technologies that improve health outcomes. Several breakthrough device manufacturers suggested that, for inclusion in MCIT, a portion of FDA pivotal studies should include a portion of Medicare beneficiaries. One breakthrough device manufacturer suggested that 25 percent of patients in the pivotal study should be Medicare beneficiaries for MCIT; otherwise, CED would be more appropriate.

Response: We agree that for breakthrough devices for which studies did not include Medicare populations or populations with characteristics similar to the Medicare population CED or a similar evidence development process would strengthen the evidence base relevant to Medicare patients. In past NCDs, we have leveraged FDA required post-market studies in CED decisions.

In contrast to the NCD process which involves a robust review of available clinical evidence, especially for the Medicare population, to determine whether the item or service is reasonable and necessary for Medicare beneficiaries, the current MCIT pathway in the MCIT/R&N final rule establishes a 4-year coverage commitment for all breakthrough devices that have a benefit category without a specific requirement that the device must demonstrate a health benefit or that the benefits outweigh harms in the Medicare population. In general, Medicare patients have more comorbidities and often require additional and higher acuity clinical treatments which may impact the outcomes differently than the usual patients enrolled in early studies. Medicare has also focused on real world data or implementation studies to understand how items and services perform when more broadly used in general practice in the Medicare population. These considerations are often not addressed in the early device development process.

We also note that FDA grants breakthrough designation early in a device's product lifecycle. In part, the FDA considers ''whether there is a reasonable expectation that a device could provide for more effective treatment or diagnosis relative to the current standard of care (SOC) in the U.S. A complete set of clinical data is not required for designation.'' [1] At the time a device is granted breakthrough status by the FDA, little may be known about the benefits and harms of the device. We recognize the importance of breakthrough technologies that provide for more effective treatment of life-threatening and irreversibly debilitating diseases and conditions when no effective treatment exists.

In cases where there is greater uncertainty surrounding the benefit-risk profile of a breakthrough device, some commenters have suggested that more relevant evidence is needed for Medicare patients to determine health benefit, to mitigate harms that may not be apparent in initial studies with small sample sizes, and to understand the balance of benefits and harms when breakthrough devices are used more broadly in Medicare patients. The additional delay announced in this rule will provide an opportunity to ensure that the objections to the rule are adequately considered. We will consider ways to diminish uncertainty with respect to Medicare coverage by building upon the evidence foundation established during the market authorization process or combining that evidence with other approaches like CED to expedite coverage in appropriate instances.

For CMS, the evidence base underlying the FDA's decision to approve or clear a device for particular indications for use has been crucial for determining Medicare coverage through the NCD process. CMS looks to the evidence supporting FDA market authorization and the device indications for use for evidence generalizable to the Medicare population, data on improvement in health outcomes, and durability of those outcomes. If there are no data on those elements, it is difficult for CMS to make an evidence-based decision whether the device is reasonable and necessary for the Medicare population.

The current MCIT/R&N final rule does not specify any coverage criteria beyond the FDA indication(s) for use for which FDA has approved or cleared the device. The current final rule would provide coverage when a device is used according to approved or cleared indication(s) for use. A device's approved or cleared indications for use may not include information that is important or particularly relevant for Medicare patients and clinicians when making treatment decisions. With breakthrough devices, as mentioned by some commenters, the patients included in device studies generally are not Medicare beneficiaries who often have multiple comorbidities and higher acuity of illness.

The data used to determine whether a device meets applicable FDA safety

[1] U.S. Department of Health and Human Services, Food and Drug Administration Breakthrough Devices Program: Guidance for Industry and Food and Drug Administration Staff 9 (December 18, 2018), *available at https://www.fda.gov/media/108135/download.*

and effectiveness requirements for its approved or cleared indication(s) for use may not be able to answer questions such as the following:

- Does the benefit differ for older and/or frailer patients with specific comorbidities?
- Are clinician experience or facility requirements needed to ensure good health outcomes or to prevent certain harms in those patients?

These guidelines and recommendations have often been part of NCDs, but were not included in the MCIT policy. When making NCDs, CMS sometimes develops clinician and institutional requirements after careful review of expert physicians' specialty society guidelines and clinical study results. Additional rulemaking may provide a further opportunity for the public to opine on whether these types of restrictions are needed when covering breakthrough devices.

Comment: Manufacturers acknowledged the need to develop evidence to achieve long-term coverage, and many indicated their intent to develop real world evidence (RWE). Some stated that MCIT would incentivize manufacturers to develop RWE following market authorization and sought guidance from CMS on desired elements.

Response: Whether evidence development is voluntary or required for coverage, we value manufacturer, CMS, and FDA coordination on RWE development for coverage and/or post-market studies. Establishing the RWE guidance sought by manufacturers and some physicians would be beneficial and that further stakeholder engagement would best inform the guidance. CMS has multiple pathways to facilitate engagement such as the Medicare Evidence Development and Coverage Advisory Committee (MEDCAC) and the public input process through the **Federal Register**. We are also receptive to informal engagement with stakeholders, including with manufacturers who pursue this evidence development approach. We are aware that best practices for RWE generation are in development by some stakeholders. However, when a device receives breakthrough designation by the FDA, there is currently no clinical study requirement for market-authorization that Medicare patients must be included. Without relevant Medicare data, including RWE, under the MCIT/R&N final rule, CMS may be covering devices with no data demonstrating that Medicare patients will not be harmed or will benefit from the device. Currently, when CMS sees a trend indicative of a potentially harmful device, we are sometimes able to deny coverage through Medicare Administrative Contractors. Under the MCIT/R&N final rule, this authority has been removed as we may only remove a breakthrough device from the MCIT coverage pathway for limited reasons, including if FDA issues a safety communication, warning letter, or removes the device from the market. Further, under the current final rule, if CMS is seeing a trend of higher risk specifically in the Medicare population, CMS' authority with respect to coverage for Medicare determinations is limited without an FDA action, which would not just take the Medicare population experience into account. That is, the FDA's review of devices is for the entirety of the intended patient population rather than within the narrower Medicare population.

Comment: Some stakeholders continued to express concern that reliance on breakthrough designation ceded decision-making authority on what is reasonable and necessary for Medicare patients to an FDA decision very early in the product lifecycle. A number of physician commenters with experience in clinical evidence noted a number of compelling evidentiary concerns, including their assertion that the MCIT policy is flawed because of a lack of evidence that breakthroughs benefit Medicare beneficiaries. One manufacturer suggested that pivotal studies should have to demonstrate patient benefit in the Medicare population in order to obtain MCIT coverage.

Response: The FDA criteria to determine whether a device is designated as a breakthrough is different from the criteria and evidence CMS reviews to determine appropriateness for the Medicare population. The FDA does not routinely require data on Medicare patients. The relevant data is key for Medicare national coverage decision-making to ensure that Medicare is paying for devices that are beneficial to Medicare patients. While the goal of the MCIT/R&N final rule was to expedite coverage to speed access to innovative treatments, the immediacy of coverage must be balanced with ensuring that the Medicare program is covering appropriate devices for the Medicare population. Without any data or minimal clinical data to make this determination, it is challenging to ensure that breakthrough devices are beneficial to the Medicare population. We will further consider public comments seeking modifications to MCIT that might allow for expedited coverage while seeking to ensure devices are safe for Medicare patients even when those breakthrough devices do not have an evidence base that is generalizable to Medicare beneficiaries.

Comment: Medical specialty societies also sought modifications to the MCIT/R&N final rule regarding evidence development, specifically the addition of RWE requirements and a clarification of CMS' CED authorities. Commenters specifically recommended post market studies, data collection, and recommended CED as a potential pathway to address uncertainty in health outcomes. In lieu of MCIT, commenters recommended using the Parallel Review program for devices with a broad evidence base and a CED for devices with a developing evidence base.

Response: We appreciate these comments and refer to our earlier responses addressing similar issues regarding evidence development and RWE-related comments. CED has been utilized for many years to allow beneficiary access while simultaneously fostering evidence development. The public comments suggest there is an interest in additional guidance on CED. Knowing where there are gaps in clinical evidence for a device or type of devices is a preliminary question asked and researched by CMS and FDA. This gap analysis with respect to the Medicare reasonable and necessary criteria is a precursor to CED parameters for a given item or service. We are aware that manufacturers are interested in more input from CMS on what evidence needs to be developed for coverage, including a discussion of the gap analysis. Based on the comments from manufacturers that indicated they were already developing or would develop evidence following market authorization, we believe there is also interest in coordination with CMS to create an evidence development plan that is fit-for-purpose in line with manufacturer coverage goals to ensure that Medicare patients are protected.

Comment: Several health plans participating in Medicare Advantage (MA) and their advocacy associations submitted comments that raised concerns with the MCIT/R&N final rule. Associations specifically indicated that the final rule should be rescinded and not implemented. In general, they recommend post market data collection and use of existing coverage pathways. One health plan noted several concerns for the MA plans if the MCIT/R&N final rule is implemented specific to bids and plan payment rates and related downstream effects for beneficiaries such as increased out of pocket costs, fewer benefits, and perhaps even fewer plan offerings.

Response: There is not a substantive discussion on how the MCIT pathway would affect MA plans in the MCIT/R&N final rule. Under current law, MA plans are required to offer coverage of reasonable and necessary items and services covered under part A and part B on terms at least as favorable as those adopted by fee for service Medicare. CMS did not fully consider the MA effects in the MCIT/R&N final rule. Specifically, the cost implications for MA plans of blanket national coverage and all of the associated costs to the breakthrough device was not fully explored. For example, if a breakthrough device was implanted, Medicare would pay not just for the device, but also for the reasonable and necessary procedures and related care and services such as the surgery, and related visits to prepare for surgery and follow up. These non-device costs were not considered in the regulatory impact analysis (RIA).

Comment: Some commenters noted that the MCIT/R&N final rule could potentially lead to increased fraud, waste and abuse. A commenter noted that, under the final rule, the current MCIT construct offering guaranteed Medicare payment for 3 to 4 years with broad-based coverage criteria and minimal limitations for a massive patient population is a strong scenario for fraud.

Response: We believe the commenters are suggesting that the expanded coverage may encourage greater use of these devices than they believe is warranted. Because these determinations would depend on specific facts, CMS would follow its normal process in the event there was a concern of fraud or abuse.

Comment: Another stakeholder raised concerns that the MCIT/R&N final rule as currently constructed only considers industry's perspective and does not take into account physician and patient perspectives. They further noted that for MCIT there is no established mechanism in place for those stakeholders to provide comments regarding their concerns about using these technologies on the Medicare population. To that end, they claim that the current MCIT/R&N final rule lacks the transparency and accountability found in the existing NCD and LCD processes.

Response: We appreciate these comments. We acknowledge that the MCIT/R&N final rule as currently designed does not provide the same level of opportunities for public participation as stakeholders have become accustomed to with the established NCD and LCD processes where, for each item or service considered for coverage, stakeholders have an opportunity to comment.

Comment: Regarding operational issues for MCIT, manufacturers commented that the existing processes in place for BCD, coding, and payment should work for MCIT, and that early coordination with CMS shortly after breakthrough designation should allow for time for these processes to play out. Commenters, including several manufacturers, recommended that CMS establish provisional codes and payment for breakthrough devices as part of the MCIT pathway to ensure availability of codes and payment at the time of FDA approval. They also recommended that CMS formalize an operational framework with a predictable timeline to conduct evidence reviews, develop benefit category determinations, codes, and payment.

Response: We will take these suggestions under consideration for future rulemaking.

Comment: Commenters indicated that the newly public information about the volume increase in the Breakthrough Device volume [2] was not a concern and that it should not impede implementation of the MCIT/R&N final rule. Others stated that the RIA was sufficient because not all devices designated as breakthrough would ultimately achieve market authorization after the 4-year period. Still others believed the RIA was insufficient because they believe there would be more breakthrough devices market authorized than included in the estimate. In light of the increase in volume, a commenter suggested considering mechanisms, such as establishing user fees, to increase resources through dedicated appropriation or other mechanisms.

Response: We must take into consideration the number of possible devices that will be approved through the MCIT pathway. Further, under the MCIT/R&N final rule any breakthrough device that receives FDA market-authorization is potentially covered for any Medicare patient without evidence of its benefit generated in the Medicare population. Beyond limits in the indications for use for which FDA approves or clears a device, CMS does not have the authority under the finalized MCIT policy to further define clinical parameters to narrow or expand national coverage. In addition, all related care and services associated with the device are covered which could include additional visits and maintenance of the device. CMS did not factor these costs in the RIA. This analysis has an impact on ensuring there are sufficient resources for the program to run efficiently. As with any program, sufficient resources are key to efficient and timely operations.

Comment: Most manufacturers commented that the patient protections in place in the final rule, specifically the reliance on FDA safety and efficacy requirements to grant coverage to breakthrough devices under MCIT, were sufficient to prevent beneficiary harm.

Response: As finalized in the MCIT/R&N final rule, devices could be used on Medicare patients without any evidence of the devices' clinical utility in the Medicare population. To remove a device from Medicare coverage under MCIT, FDA must issue a safety communication, warning letter, or remove the device from the market. Under the MCIT/R&N final rule, if CMS observes a trend of higher risk, specifically in the Medicare population, CMS authority to deny coverage is limited. For example, if a CMS contractor (for example, a Medicare Administrative Contractor (MAC)) identifies a pattern or trend of significant patient harm or death related to an MCIT device, there is no procedure to quickly remove coverage for the device until and unless the FDA acts. We believe that the public should have an additional opportunity to comment on this policy.

Comment: A commenter recommends that MCIT coverage could be offered to the class of the breakthrough device including device iterations and follow-on competitive devices. The commenter suggested that CMS direct an evidence review at the end of the 4 years of MCIT coverage for a particular device determine which coverage pathway would be most appropriate to ensure the most benefit to Medicare patients.

Response: Clinical evidence development that includes Medicare beneficiaries is central to ensuring that Medicare patients are receiving optimal clinical care and minimizing risk when possible. While examining data on a group of similar breakthrough devices and identifying gaps in the evidence base may be a greater effort initially than the evidence review for one device, it could result in efficiencies across several components within CMS and inform coverage in a more comprehensive manner than MCIT, which is one device at a time. We will

[2] U.S. Department of Health and Human Services, Food and Drug Administration, Reflections on a Record Year for Novel Device Innovation Despite COVID–19 Challenges (Feb. 16, 2021), *available at https://www.fda.gov/news-events/fda-voices/reflections-record-year-novel-device-innovation-despite-covid-19-challenges.*

seek additional public comments on this topic when considering any proposed changes.

Comment: Some stakeholders supported defining ''reasonable and necessary'' in regulation while others do not believe a codified definition is necessary. Commenters expressed concerns about transparency of commercial coverage polices and believed the rule could unnecessarily restrict coverage by relying on commercial insurer policies designed for a different population with different incentives. Furthermore, the majority of public comments from patient advocates, policy ''think tanks,'' health insurance advocates and manufacturers did not support including commercial insurer criteria in the definition. Most public comments noted that CMS can (and has) reviewed commercial policies in recent years as part of a national coverage analysis. Other commenters suggested separating and reissuing separate rules for the definition of ''reasonable and necessary'' and MCIT because they were viewed as too distinct.

Response: We will consider this comment for future rulemaking.

C. Impracticability of Implementation by May 15, 2021

As noted previously, many commenters on the March 2021 IFC supported delaying the MCIT/R&N final rule. Based upon the public comments expressing significant evidentiary concerns, we do not believe that it is in the best interest of Medicare beneficiaries for the MCIT/R&N final rule to become effective May 15, 2021. Under the current rule, there no requirement for evidence that MCIT devices will specifically benefit the Medicare target population. Additionally, the final rule takes away tools the CMS has to deny coverage when it becomes apparent that a particular device can be harmful to the Medicare population. If the rule goes into effect, and a device is later found to be harmful to Medicare recipients is approved under the MCIT pathway, CMS would be limited in the actions it can take to withdraw or modify coverage to protect beneficiaries.

As was noted by some commenters, early and unrestricted adoption of devices may have consequences that may not be easy to reverse. Commenters referenced publications that highlight the relationship between manufacturers and physicians and claimed that the potential for manufacturers to influence physician behavior will persist if coverage is guaranteed under MCIT. Guaranteed coverage under MCIT may further stimulate providers to adopt these technologies and could potentially lead to these technologies being prematurely viewed as standard of care which could adversely impact beneficiaries if a product does not ultimately receive Medicare coverage. Additionally, providers may make capital and capacity investments that could pose challenges to withdrawing coverage.

A common theme among some commenters is that, under the MCIT/R&N final rule as currently written, the evidence used to support FDA clearance or approval of a breakthrough device is not generalizable to the Medicare population since the Medicare population is often not adequately represented in clinical trials. Commenters noted that existing Medicare coverage paradigms rely on careful consideration of the tradeoffs between benefits and risks for the Medicare population and adequate evidence that demonstrates improved health outcomes. Commenters expressed concerns that devices covered under MCIT would not achieve that standard. Additionally, commenters cited several published studies that noted that approval of many breakthrough devices relied upon intermediate endpoints which do not always translate into real world improved health outcomes. Multiple commenters also pointed out that a major limitation of the MCIT pathway under the MCIT/R&N final rule is that manufacturers are not required or incentivized to conduct clinical trials to generate additional evidence, and contended that it is unlikely that manufacturers will voluntarily choose to do so. Further, the shift of the burden of evidence development entirely to manufacturers undermines CMS' ability to support evidence development or establish the coverage criteria (for example, provider experience, location of service, availability of supporting services) that are central to delivery of high-quality, evidence-based care for devices with insufficient evidence of a health benefit for Medicare patients. An additional delay in the effective date would allow time for CMS to address the evidentiary concerns raised by stakeholders and consider how to better balance the needs of all stakeholders and beneficiaries in particular.

Additionally, there is significant uncertainty surrounding coding and payment for new MCIT devices since these issues were not addressed in the MCIT/R&N final rule. If the MCIT/R&N final rule goes into effect, we believe there could be confusion and disruption stemming from devices receiving MCIT approval without a clear path for appropriate coding and payment. The delay will allow CMS time to ensure the public has a clear understanding of the pathways to coverage, coding, and payment.

Further, the delay gives CMS time to evaluate stakeholders' recommendation of whether the reasonable and necessary definition should be a separate rule. There were a number of stakeholder comments supporting delaying defining ''reasonable and necessary'' in regulation. Commenters did not believe a codified definition was necessary or thought the rule could unnecessarily restrict coverage by relying on commercial insurer policies. Furthermore, the majority of public comments from patient advocates, policy think tanks, health insurance advocates and manufactures did not support including commercial insurer criteria in the definition. Most public comments noted that CMS can (and has) reviewed commercial policies in recent years as part of a national coverage analysis.

Future rulemaking will provide an opportunity for us to fully consider the significant objections to the rule, and will provide another opportunity for the public to present contrary facts and arguments.

II. Provisions of the Final Rule

This final rule would further delay the effective date of the MCIT/R&N final rule until December 15, 2021, to provide CMS an opportunity to address all of the issues raised by stakeholders, especially Medicare patient protections, evidence criteria and lack of coordination between coverage, coding and payment as noted previously. During the delay, we will determine appropriate next steps that are in the best interest of all Medicare stakeholders, and beneficiaries in particular.

This final rule delays the effective date of the January 2021 MCIT/R&N final rule as specified in the **DATES** section of this final rule.

III. Waiver of the 30-Day Delay in Effective Date

The Administrative Procedure Act, 5 U.S.C. 553(d), and section 1871(e)(1)(B)(i) of the Act usually require a 30-day delay in effective date after issuance or publication of a rule, subject to exceptions. The purpose of the 30-day delay is to allow the public to prepare to implement the new final rule. We find good cause to waive the 30-day delay in the effective date because the further extension will maintain the status quo, so the public does not need notice to adjust their

behavior as a result of the additional delay. Moreover, allowing the prior rule to go into effect would defeat the purpose of the delay rule and result in the same difficulties that were identified regarding reversing course once the rule was in place and would be contrary to the public interest.

Dated: May 13, 2021.

Xavier Becerra,

Secretary, Department of Health and Human Services.

I, Elizabeth Richter, Acting Administrator of the Centers for Medicare & Medicaid Services,

Approved This Document on May 12, 2021

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Proposed Rules

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0371; Project Identifier MCAI–2021–00102–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A330–200, –200 Freighter, –300, –800, and –900 series airplanes; and Model A340–200 and –300 series airplanes. This proposed AD was prompted by reports of incorrect installation of the lower attachment parts of the trimmable horizontal stabilizer actuator (THSA). This proposed AD would require doing a detailed inspection of the THSA lower attachment parts for discrepancies and corrective action if necessary, and would prohibit using earlier versions of certain airplane maintenance manual (AMM) tasks, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 2, 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 *chttps://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that will be incorporated by reference (IBR) in this AD, contact 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–2021–0371.

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–2021–0371; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0371; Project Identifier MCAI–2021–00102–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0033, dated January 25, 2021 (EASA AD 2021–0033) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A330–200, –200 Freighter, –300, –800, and –900 series airplanes; and Model A340–200 and –300 series airplanes. Model A330–743L airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not

include those airplanes in the applicability.

This proposed AD was prompted by reports of incorrect installation of the lower attachment parts of the THSA. The FAA is proposing this AD to address incorrect installation of the THSA lower attachment parts, which could lead to the loss of THSA primary load path and consequent activation of THSA secondary load path (which is designed to withstand full loads only for a limited period of time), and possibly result in reduced controllability of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0033 describes procedures for doing a detailed inspection of the THSA lower attachment parts for discrepancies (*i.e.,* incorrect installation) and corrective actions (which includes detailed inspections of the horizontal stabilizer, the assembly of the trim actuating arms, the support fittings, and the upper and lower attachment plates for any cracks, dents and scratches, corrosion, deterioration of the structure, and the condition of the fasteners and bearings, and repair; and re-installing or replacing the THSA lower attachment parts) if necessary. EASA AD 2021–0033 also prohibits using earlier versions of certain AMM tasks. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0033 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2021–0033 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0033 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2021–0033 that is required for compliance with EASA AD 2021–0033 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0371 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 120 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$20,400

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
25 work-hours × $85 per hour = $2,125	$821,060	$823,185

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2021–0371; Project Identifier MCAI–2021–00102–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 2, 2021.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes specified in paragraphs (c)(1) through (7) of this AD, certificated in any category.

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–223F and –243F airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–841 airplanes.

(5) Model A330–941 airplanes.

(6) Model A340–211, –212, and –213 airplanes.

(7) Model A340–311, –312, and –313 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by reports of incorrect installation of the lower attachment parts of the trimmable horizontal stabilizer actuator (THSA). The FAA is issuing this AD to address incorrect installation of the THSA lower attachment parts, which could lead to the loss of THSA primary load path and consequent activation of THSA secondary load path (which is designed to withstand full loads only for a limited period of time), and possibly result in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0033, dated January 25, 2021 (EASA AD 2021–0033).

(h) Exceptions to EASA AD 2021–0033

(1) Where EASA AD 2021–0033 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0033 does not apply to this AD.

(3) Where any service information in EASA AD 2021–0033 specifies to contact Airbus in case of findings, this AD requires doing a repair using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information referenced in EASA AD 2021–0033 that contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Related Information

(1) For information about EASA AD 2021–0033, 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.* 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–2021–0371.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.*

Issued on May 12, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–10377 Filed 5–17–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0369; Project Identifier 2019–SW–033–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350D, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters. This proposed AD was prompted by a report of reduced yaw control, during an approach for landing, that resulted from rupture of the tail rotor gearbox (TGB) actuating rod and uncoupling of the steel sleeve from inside the external aluminum tube. This proposed AD would require dye penetrant inspecting certain TGB actuating rods for a crack, and depending on the inspection results, replacing the TGB actuating rod, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). This proposed AD would also require marking each TGB actuating rod, reporting information, and, for certain helicopters, ensuring the correct interface between certain TGB actuating rods and bearings. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 2, 2021.

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

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

For material that is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this material on the EASA website at *https://ad.easa.europa.eu*. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0369.

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–2021–0369; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0369; Project Identifier 2019–SW–033–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Kathleen Arrigotti, Program Manager, Large Aircraft Section, International Validation Branch, Compliance & Airworthiness Division, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax (206) 231–3218; email *kathleen.arrigotti@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0060, dated March 20, 2019 (EASA AD 2019–0060) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Helicopters Model AS 350 B, AS 350 BA, AS 350 BB, AS 350 B1, AS 350 B2, AS 350 B3, AS 350 D, AS 355 E, AS 355 F, AS 355 F1, AS 355 F2, AS 355 N and AS 355 NP helicopters. Model AS 350 BB helicopters are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those helicopters in the applicability. Although EASA AD 2019–0060 applies to all helicopters identified in EASA AD 2019–0060, this proposed AD applies to helicopters with an affected part installed instead.

This proposed AD was prompted by a report of reduced yaw control, during an approach for landing of an AS 350 helicopter, that resulted from rupture of the TGB actuating rod and uncoupling of the steel sleeve from inside the external aluminum tube. Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters are affected due to design similarity of installed TGB actuating rods. The FAA is proposing this AD to address failure of a TGB actuating rod, which could result in loss of yaw control of the helicopter. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2019–0060 describes procedures for dye penetrant inspecting certain TGB actuating rods for a crack, and depending on the inspection results, replacing the TGB actuating rod. EASA AD 2019–0060 also describes procedures for marking each TGB actuating rod, reporting information,

and for certain helicopters, ensuring the correct interface between certain TGB actuating rods and bearings.

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

FAA's Determination and Requirements of This Proposed AD

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0060, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0060 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0060 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0060 that is required for compliance with EASA AD 2019–0060 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0369 after the FAA final rule is published.

Differences Between This Proposed AD and the MCAI

EASA AD 2019–0060 specifies ''AS350 SB [service bulletin] No. 67.10 Revision 1'' and ''AS355 SB No. 67.09 Revision 2'' as Airbus Helicopters (AH) service bulletins; however this proposed AD identifies those service bulletins as Aerospatiale service bulletins.

EASA AD 2019–0060 specifies the date for ''AS355 SB No. 67.09 Revision 2,'' as ''March 28, 1989;'' however, this proposed AD identifies the date as ''October 1989.''

Part Marking Clarification

Where paragraph (2) of EASA AD 2019–0060 specifies ''mark each affected part (all rods, regardless of the status with respect to the dye penetrant inspection),'' this proposed AD would require marking TGB actuating rods identified in paragraphs (c)(1) through (9) of this proposed AD regardless of their manufacturing date. The manufacturing dates in Table 1 of EASA AD 2019–0060 are used only to indicate the parts on which the dye penetrant inspection specified in paragraph (1) of EASA AD 2019–0060 is done; the manufacturing dates do not impact the parts on which the marking specified in paragraph (2) of EASA AD 2019–006 must be done.

Interim Action

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

Costs of Compliance

The FAA estimates that this proposed AD affects 950 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$0	$510	$484,500

* Table does not include estimated costs for reporting.

The FAA estimates that it would take about 1 hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $80,750, or $85 per product.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of helicopters that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 16 work-hours X $85 per hour = $1,360	$2,590	Up to $3,950.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid

OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2021–0369; Project Identifier 2019–SW–033–AD.

(a) Comments Due Date

The FAA must receive comments by July 2, 2021.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350D, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, certificated in any category, with a tail rotor gearbox (TGB) actuating rod identified in paragraphs (c)(1) through (9) of this AD installed.

(1) Part number (P/N) 350A27191000;
(2) P/N 350A27191001;
(3) P/N 350A27191002;
(4) P/N 350A27191003;
(5) P/N 350A27191004;
(6) P/N 350A2719100401;
(7) P/N 350A2719100402;
(8) P/N 350A27192000; or
(9) A TGB actuating rod with an unknown part number and serial number.

(d) Subject

Joint Aircraft System Component (JASC) Code: 6720, Tail Rotor Control System.

(e) Reason

This AD was prompted by a report of reduced yaw control, during an approach for landing, that resulted from rupture of the TGB actuating rod and uncoupling of the steel sleeve from inside the external aluminum tube. The FAA is issuing this AD to address failure of a TGB actuating rod, which could result in loss of yaw control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0060, dated March 20, 2019 (EASA AD 2019–0060).

(h) Exceptions to EASA AD 2019–0060

(1) Where EASA AD 2019–0060 refers to January 3, 2019 (the effective date of EASA AD 2018–0287, dated December 20, 2018), or its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2019–0060 refers to flight hours (FH), this AD requires using hours time-in-service.

(3) Where paragraph (2) of EASA AD 2019–0060 specifies to mark TGB actuating rods, replace the language in paragraph (2) of EASA AD 2019–0060 that states ''the instructions of section 3 of the applicable ASB [alert service bulletin],'' with the applicable language specified in paragraphs (h)(3)(i) and (ii) of this AD.

(i) For P/N 350A2719100402 and parts not included in table 1 of EASA AD 2019–0060: ''the instructions for 'If only paragraph 3.B.2.a. was complied with' of paragraph 3.C. of the Accomplishment Instructions of the applicable ASB.''

(ii) For parts included in table 1 of EASA AD 2019–0060: ''the instructions for 'If paragraph 3.B.2.b. or paragraph 3.B.5. was complied with' of paragraph 3.C. of the Accomplishment Instructions of the applicable ASB.''

(4) Where paragraph (2) of EASA AD 2019–0060 specifies ''mark each affected part (all rods, regardless of the status with respect to the dye penetrant inspection), and each TGB rod having P/N 350A2719100402,'' for this AD, mark the parts identified in paragraphs (c)(1) through (9) of this AD.''

(5) Where EASA AD 2019–0060 specifies ''AH [Airbus Helicopters] AS350 SB [service bulletin] No. 67.10 Revision 1'' and ''AH AS355 SB No. 67.09 Revision 2,'' replace the text ''AH'' with ''Aerospatiale.''

(6) Where the ''Ref. Publications'' section of EASA AD 2019–0060 specifies the date for ''AS355 SB No. 67.09 Revision 2,'' replace the text ''28 March 1989'' with ''October 1989.''

(7) Although service information referenced in EASA AD 2019–0060 specifies to keep parts, this AD does not include that requirement.

(8) Paragraph (7) of EASA AD 2019–0060 specifies to report inspection results to Airbus Helicopters within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(8)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(9) For the purposes of this AD, ''CW,'' which is stated in Table 1 of EASA AD 2019–0060, is defined as calendar week.

(10) The ''Remarks'' section of EASA AD 2019–0060 does not apply to this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to: Manager, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For EASA AD 2019–0060, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0369.

(2) For more information about this AD, contact Kathleen Arrigotti, Program Manager, Large Aircraft Section, International Validation Branch, Compliance & Airworthiness Division, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax (206) 231–3218; email *kathleen.arrigotti@faa.gov*.

Issued on May 11, 2021.

Ross Landes,

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

[FR Doc. 2021–10353 Filed 5–17–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0328; Airspace Docket No. 21–ASO–5]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Savannah, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace by removing unnecessary verbiage from the description, and Class E surface airspace in Savannah, GA, by updating the dividing line between Savannah/Hilton Head International Airport and Hunter Army Airfield. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before July 2, 2021.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2021–0328; Airspace Docket No. 21–ASO–5, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov*.

FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and E airspace in Savannah, GA.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2021–0328 and Airspace Docket No. 21–ASO–5) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov*.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0328 Airspace Docket No. 21–ASO–5.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday,

except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class D airspace by removing (previously called Airport/Facility Directory) from the description, as it is unnecessary, and Class E surface airspace in Savannah, GA by updating the dividing line separating the airspace between Savannah/Hilton Head International Airport and Hunter AAF.

Class D and E airspace designations are published in Paragraphs 5000, and 6002, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO GA D Savannah, GA [Amended]

Hunter AAF, GA
(Lat. 32°00′36″ N, long. 81°08′46″ W)
Savannah/Hilton Head International Airport
(Lat. 32°07′39″ N, long. 81°12′08″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5-mile radius of Hunter AAF; excluding that portion of the overlying Savannah, GA, Class C airspace area and that airspace north of lat. 32°02′30″ N. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Airspace.

* * * * *

ASO GA E2 Savannah, GA [Amended]

Savannah/Hilton Head International Airport, GA
(Lat. 32°07′39″ N, long. 81°12′08″ W)
Hunter AAF
(Lat. 32°00′36″ N, long. 81°08′46″ W)

That airspace extending upward from the surface within a 5-mile radius of Savannah/Hilton Head International Airport and within a 4.5-mile radius of Hunter AAF, excluding that airspace north of lat. 32°02′30″ N. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Issued in College Park, Georgia, on May 11, 2021.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–10368 Filed 5–17–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No. PTO–T–2021–0008]

RIN 0651–AD55

Changes To Implement Provisions of the Trademark Modernization Act of 2020

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) proposes to amend the rules of practice in trademark cases to implement provisions of the Trademark Modernization Act of 2020. The proposed rule establishes ex parte expungement and reexamination proceedings for cancellation of a registration when the required use in commerce of the registered mark has not been made; provides for a new nonuse ground for cancellation before the Trademark Trial and Appeal Board; establishes flexible Office action response periods; and amends the existing letter-of-protest rule to indicate that letter-of-protest determinations are final and non-reviewable. The USPTO also proposes to set fees for petitions requesting institution of ex parte expungement and reexamination proceedings, and for requests to extend Office action response deadlines. Amendments are also proposed for the rules concerning the suspension of USPTO proceedings and the rules governing attorney recognition in trademark matters. Finally, a new rule is proposed to address procedures regarding court orders cancelling or affecting registrations.

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

ADDRESSES: For reasons of government efficiency, comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, one should enter docket number PTO–T–2021–0008 on the homepage and click ''search.'' The site will provide search results listing all documents associated with this docket. Commenters can find a reference to this notice and click on the ''Comment Now!'' icon, complete the required fields, and enter or attach their comments. Attachments to electronic comments will be accepted in Adobe® portable document format or Microsoft Word® format. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

Visit the Federal eRulemaking Portal for additional instructions on providing comments via the portal. If electronic submission of or access to comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Robert Lavache, Office of the Deputy Commissioner for Trademark Examination Policy, at 571–272–5881, or by email at *TMPolicy@uspto.gov.*

SUPPLEMENTARY INFORMATION:

The Trademark Modernization Act of 2020 (TMA) was enacted on December 27, 2020. See Public Law 116–260, Div. Q, Tit. II, Subtit. B, §§ 221–228 (Dec. 27, 2020). The TMA amends the Trademark Act of 1946 (the Act) to establish new ex parte expungement and reexamination proceedings to cancel, either in whole or in part, registered marks for which the required use in commerce was not made. *Id.* at § 225(a), (c). Furthermore, the TMA amends § 14 of the Act to allow a party to allege that a mark has never been used in commerce as a basis for cancellation before the Trademark Trial and Appeal Board (TTAB). *Id.* at § 225(b). The TMA also authorizes the USPTO to promulgate regulations to set flexible Office action response periods between 60 days and 6 months, with an option for applicants to extend the deadline up to a maximum of 6 months from the Office action issue date. *Id.* at § 224. In addition, the TMA includes statutory authority for the USPTO's letter-of-protest procedures, which allow third parties to submit evidence to the USPTO relevant to a trademark's registrability during the initial examination of the trademark application, and provides that the decision whether to include such evidence in the application record is final and non-reviewable. *Id.* at § 223. The TMA requires the USPTO to promulgate regulations to implement the provisions relating to the new ex parte expungement and reexamination proceedings, and the letter-of-protest procedures, within one year of the TMA's enactment. *Id.* at §§ 223(b), 225(f).

Accordingly, the USPTO proposes to revise the rules in 37 CFR parts 2 and 7 to implement the TMA's provisions and set fees for the new ex parte expungement and reexamination proceedings and for response deadline extensions. The proposed rule is also intended to clarify that the new ex parte expungement and reexamination proceedings are subject to suspension in appropriate cases and to ensure that the rules reflect existing practice regarding suspension of proceedings before the USPTO and the TTAB. The USPTO also proposes to amend the rules regarding attorney recognition and correspondence to allow attorney recognition to continue until it is revoked or the attorney withdraws. This change is proposed to align the rules with current USPTO practice and facilitate implementation of a role-based access control system intended to improve USPTO database security and integrity. Finally, the USPTO proposes to add a new rule formalizing the USPTO's longstanding procedures concerning action on court orders cancelling or affecting a registration under section 37 of the Act, 15 U.S.C. 1119.

I. Ex Parte Expungement and Reexamination Proceedings

As the House Report for the TMA explained, ''[t]rademarks are at the foundation of a successful commercial marketplace. Trademarks allow companies to identify their goods and services, and they ensure that consumers know whose product they are buying. . . . By guarding against deception in the marketplace, trademarks also serve an important consumer protection role.'' H. Rep. No. 116–645, at 8–9 (2020) (citation omitted).

In order to have a well-functioning trademark system, the trademark register should accurately reflect trademarks that are currently in use. *Id.* at 9. When the register includes marks that are not currently in use, it is more difficult for legitimate businesses to clear and register their own marks. *Id.* It has become apparent in recent years that registrations are being obtained and maintained for marks that are not properly in use in commerce. *Id.* at 9–10. Moreover, this ''cluttering'' has real-world consequences when the availability of marks is depleted. *Id.* at 9.

The House Report also noted that ''[a] recent rise in fraudulent trademark applications has put further strain on the accuracy of the **Federal Register**. . . . Although trademark applications go through an examination process, some of these forms of fraud are difficult to detect in individual applications (even if patterns of fraud can be seen across multiple applications), leading to illegitimate registrations. Although the USPTO can try to develop better systems to detect fraud during the examination process, its authority to reconsider applications after registration is currently limited.'' *Id.* at 10–11 (citation omitted).

To address these problems, the TMA created two new ex parte processes that will allow a third party, or the Director, to challenge whether a registrant made use of its registered trademark in commerce. If the registered mark was not properly used, the Office will be able to cancel the registration. *Id.* at 11. The TMA also provided for improvements to make the trademark examination process more efficient and more effective at clearing applications that may block later-filed applications from proceeding to registration. *Id.*

The two new ex parte proceedings created by the TMA—one for expungement and one for reexamination—are intended to help ensure the accuracy of the trademark register by providing a new mechanism for removing a registered mark from the trademark register, or cancelling the registration as to certain goods and/or services, when the registrant has not used the mark in commerce as of the relevant date as required by the Act. In an expungement proceeding, the USPTO must determine whether the evidence of record supports a finding that the registered mark has never been used in commerce on or in connection with some or all of the goods and/or services recited in the registration. In a reexamination proceeding, the USPTO must determine whether the evidence of record supports a finding that the mark registered under section 1 of the Act was not in use in commerce on or in connection with some or all of the goods and/or services as of the filing date of the application or amendment to allege use, or before the deadline for filing a statement of use, as applicable. If the USPTO finds that the required use was not made for the goods or services at issue in the proceeding, and that

determination is not overturned on review, the registration will be cancelled in whole or in part, as appropriate.

These new proceedings are intended to provide a faster, more efficient, and less expensive alternative to a contested inter partes cancellation proceeding before the TTAB. While the authority for the expungement and reexamination proceedings is set forth in separate subsections of the Act, the procedures for instituting the proceedings, the nature of the evidence required, and the process for evaluating evidence and corresponding with the registrant will be essentially the same. Thus, for administrative efficiency, proceedings involving the same registration may be consolidated by the USPTO for review.

To implement these new proceedings and related procedures, as required by the TMA, the USPTO proposes the following new rules:

- Section 2.91, setting forth the requirements for a petition requesting the institution of expungement or reexamination proceedings;
- Section 2.92, regarding the institution of expungement and reexamination proceedings;
- Sections 2.93 through 2.94, setting forth the procedures for expungement and reexamination proceedings; and
- Section 2.143, addressing appeals to the TTAB in connection with these new proceedings.

In addition, conforming amendments are proposed for the following existing rules:

- Section 2.11, which requires U.S. counsel for foreign-domiciled petitioners and registrants;
- Section 2.23, which addresses the duty to monitor the status of a registration;
- Section 2.142, which addresses the time and manner of ex parte appeals;
- Section 2.145, which addresses appeals to the U.S. Court of Appeals for the Federal Circuit;
- Section 2.146, which addresses petitions to the Director; and
- Section 2.193, which addresses signature requirements.

A. Timing for Requests for Proceedings

The TMA specifies the time periods during which a petitioner can request institution of expungement and reexamination proceedings, and during which the Director may institute such proceedings based on a petition or on the Director's own initiative. Accordingly, under proposed § 2.91(b)(1), a petitioner may request, and the Director may institute, an ex parte expungement proceeding between 3 and 10 years following the date of registration. However, the TMA provides that, until December 27, 2023 (3 years from the TMA's enactment date), a petitioner may request, and the Director may institute, an expungement proceeding for a registration that is at least 3 years old, regardless of the 10-year limit. Under proposed § 2.91(b)(2), a petitioner may request, and the Director may institute, a reexamination proceeding during the first five years following the date of registration.

The TMA gives discretion to the Director to establish by rule a limit on the number of petitions for expungement or reexamination that can be filed against a registration. However, it is envisioned that the USPTO will not initially propose such a limitation to foster clearing of the register of unused marks and also to determine whether existing safeguards in the statute and the proposed regulations suffice to protect registrants from potential misuse of the proceedings. These safeguards include the fact that the registrant does not participate until after the Director institutes a proceeding based on a prima facie case of nonuse of the mark, and the registrant cannot be subject to another proceeding for the same goods and/or services for which use of the mark was established in a prior proceeding. If the existing safeguards in the statute and the proposed regulations do not suffice to protect registrants from misuse of the proceedings, the USPTO may establish a limit on the number of petitions for expungement or reexamination that can be filed against a registration. The USPTO seeks comment on this approach.

B. Petition Requirements

Under the TMA, and proposed § 2.91, any person may file a petition with the USPTO requesting institution of an expungement or reexamination proceeding. Although the USPTO does not anticipate requiring real-party-in-interest information from the petitioner, the USPTO is seeking comments on whether and when the Director should require a petitioner to identify the name of the real party in interest on whose behalf the petition is filed.

Reexamination and expungement petitions are intended to allow third parties to bring unused registered marks to the attention of the USPTO. To the extent a registrant believes its own mark was not used in commerce, or is no longer used in commerce, on or in connection with some or all of the goods and/or services listed in the registration, the registrant should utilize the existing mechanisms for voluntarily amending the registration to delete the goods and/or services or surrendering the registration in its entirety, pursuant to section 7 of the Act, 15 U.S.C. 1057. To incentivize registrants to keep their registrations accurate and up to date as to the goods and/or services on which the mark is actually used in commerce, the USPTO established a $0 fee for voluntary deletions of goods and/or services made outside of a maintenance examination as of January 2, 2021, in the Trademark Fee Adjustment rule (85 FR 73197, November 17, 2020).

A petition for expungement must allege that the relevant registered trademark has never been used in commerce on or in connection with some or all of the goods and/or services listed in the registration.

A petition for reexamination must allege that the trademark was not in use in commerce on or in connection with some or all of the goods and/or services listed in the registration on or before the relevant date, which, for any particular goods and/or services, is determined as follows:

- In a use-based application for registration of a mark with an initial filing basis of section 1(a) of the Act for the goods and/or services listed in the petition, and not amended at any point to be filed pursuant to section 1(b) of the Act, 15 U.S.C. 1051(b), the relevant date is the filing date of the application; or
- In an intent to use application for registration of a mark with an initial filing basis or amended basis of section 1(b) of the Act for the goods and/or services listed in the petition, the relevant date is the later of the filing date of an amendment to allege use identifying the goods and/or services listed in the petition, pursuant to section 1(c) of the Act, or the expiration of the deadline for filing a statement of use for the goods and/or services listed in the petition, pursuant to section 1(d), including all approved extensions thereof.

Under proposed § 2.91(c), the Director will consider only complete petitions for expungement or reexamination. To be considered complete, the petition must be made in writing and filed through the USPTO's Trademark Electronic Application System (TEAS), and must include:

(1) The fee required under proposed § 2.6(a)(26);

(2) The U.S. trademark registration number corresponding to the registration that is the subject of the petition;

(3) The basis for the petition under proposed § 2.91(a);

(4) The name, domicile address, and email address of the petitioner;

(5) If the domicile of the petitioner is not located within the United States or

its territories, a designation of an attorney, as defined in § 11.1, who is qualified to practice under § 11.14;

(6) If the petitioner is, or must be, represented by an attorney, as defined in § 11.1, who is qualified to practice under § 11.14, the attorney's name, postal address, email address, and bar information under § 2.17(b)(3);

(7) Identification of each good and/or service recited in the registration for which the petitioner requests that the proceeding be instituted on the basis identified in the petition;

(8) A verified statement that sets forth in numbered paragraphs:

(i) The elements of the reasonable investigation of nonuse the petitioner conducted, and, for each source of information relied upon, a description of how and when the searches were conducted and what the searches disclosed;

(ii) A concise factual statement of the relevant basis for the petition, including any additional facts that support the allegation of nonuse of the mark in commerce on or in connection with the relevant goods and services; and

(9) A clear and legible copy of all documentary evidence supporting a prima facie case of nonuse of the mark in commerce and an itemized index of such evidence.

If a petition does not satisfy the requirements for a complete petition, the USPTO plans to issue a letter providing the petitioner 30 days to perfect the petition by complying with the outstanding requirements, if otherwise appropriate.

C. Petition Fee

Proposed § 2.6(a)(26) sets a fee of $600, per class, for a petition for expungement or reexamination. In setting this fee, the USPTO intends to strike a balance between recovering the costs associated with conducting these proceedings (including Director-initiated proceedings) and providing a less expensive alternative to a contested inter partes cancellation proceeding before the TTAB.

D. Reasonable Investigation Requirement

Under proposed § 2.91(c), a petition requesting institution of an expungement or reexamination proceeding must include a verified statement that sets forth the elements of the reasonable investigation the petitioner conducted to determine that the mark was never used in commerce (for expungement petitions) or not in use in commerce as of the relevant date (for reexamination petitions) on or in connection with the goods and/or services identified in the petition.

A reasonable investigation is an appropriately comprehensive search likely to reveal use of the mark in commerce on or in connection with the relevant goods and/or services, if such use was, in fact, made. Thus, what constitutes a reasonable investigation is a case-by-case determination, but any investigation should focus on the mark disclosed in the registration and the identified goods and/or services, keeping in mind their scope and applicable trade channels.

The elements of a petitioner's investigation should demonstrate that a search for use in relevant channels of trade and advertising for the identified goods and/or services did not reveal any relevant use. In addition, the petitioner's statement regarding the elements of the reasonable investigation should specifically describe the sources searched, how and when the searches were conducted, and what information and evidence, if any, the searches produced.

Sources of information and evidence should include reasonably accessible sources that can be publicly disclosed, because petitions requesting institution of expungement and reexamination proceedings will be entered in the registration record and thus publicly viewable through the USPTO's Trademark Status & Document Retrieval (TSDR) database. The number and nature of the sources a petitioner must check in order for its investigation to be considered reasonable, and the corresponding evidence that would support a prima facie case, will vary depending on the goods and/or services involved, their normal trade channels, and whether the petition is for expungement or reexamination. Because nonuse for purposes of expungement and reexamination is necessarily determined in reference to a time period that includes past activities (not just current activities), a petitioner's investigation normally would include research into past usage of the mark for the goods and/or services at issue in the petition and thus may include archival evidence.

As a general matter, a single search using an internet search engine likely would not be considered a reasonable investigation. See H. Rep. No. 116–645, at 15 (2020). On the other hand, a reasonable investigation does not require a showing that all of the potentially available sources of evidence were searched. Generally, an investigation that produces reliable and credible evidence of nonuse at the relevant time should be sufficient.

As set forth in proposed § 2.91(d)(2), appropriate sources of evidence and information for a reasonable investigation may include, but are not limited to:

- State and Federal trademark records;
- internet websites and other media likely to or believed to be owned or controlled by the registrant;
- internet websites, other online media, and publications where the relevant goods and/or services likely would be advertised or offered for sale;
- Print sources and web pages likely to contain reviews or discussion of the relevant goods and/or services;
- Records of filings made with or of actions taken by any State or Federal business registration or regulatory agency;
- The registrant's marketplace activities, including, for example, any attempts to contact the registrant or purchase the relevant goods and/or services;
- Records of litigation or administrative proceedings reasonably likely to contain evidence bearing on the registrant's use or nonuse of the registered mark; and
- Any other reasonably accessible source with information establishing that the mark was never in use in commerce (expungement), or was not in use in commerce as of the relevant date (reexamination), on or in connection with the relevant goods and/or services.

A petitioner is not required or expected to commission a private investigation, but may choose to generally reference the results of any report from such an investigation, without disclosing specific information that would waive any applicable privileges.

Finally, any party practicing before the USPTO, including those filing petitions to request institution of these ex parte proceedings, is bound by all ethical rules involving candor toward the USPTO as the adjudicating tribunal. Of particular relevance in expungement and ex parte reexamination proceedings is 37 CFR 11.303(d), which provides: ''In an ex parte proceeding, a practitioner shall inform the tribunal of all material facts known to the practitioner that will enable the tribunal to make an informed decision, whether or not the facts are adverse.''

E. Director-Initiated Proceedings

As authorized by the TMA, proposed § 2.92(b) provides that the Director may, within the time periods set forth in proposed § 2.91(b), institute an expungement or reexamination proceeding on the Director's own

initiative, if the information and evidence available to the USPTO supports a prima facie case of nonuse.

Proposed § 2.92(e)(1) provides that, for efficiency and consistency, the Director may consolidate proceedings (including a Director-initiated proceeding with a petition-initiated proceeding). Consolidated proceedings are related parallel proceedings that may include both expungement and reexamination grounds.

In addition, under proposed § 2.92(e)(2), if two or more petitions under proposed § 2.91 are directed to the same registration and are pending concurrently (*i.e.,* expungement or reexamination proceedings based on these petitions are not yet instituted), or the Director wishes to institute an ex parte expungement or reexamination proceeding on the Director's own initiative under proposed § 2.92(b) concerning a registration for which one or more petitions under § 2.91 are pending, the Director may elect to institute a single proceeding.

F. Establishing a Prima Facie Case

Under proposed § 2.92, as provided for explicitly in the TMA, an expungement or reexamination proceeding will be instituted only in connection with the goods and/or services for which a prima facie case of relevant nonuse has been established. *See* Public Law 116–260, Div. Q, Tit. II, Subtit. B, § 225(a), (c). For the purpose of the proposed rule, a ''prima facie case'' requires only that a reasonable predicate concerning nonuse be established. *See* H. Rep. No. 116–645, at 8, citing *In re Pacer Tech.,* 338 F.3d 1348, 1351 (Fed. Cir. 2003) and *In re Loew's Theatres, Inc.,* 769 F.2d 764, 768 (Fed. Cir. 1985). Thus, with respect to these proceedings, a prima facie case includes sufficient notice of the claimed nonuse to allow the registrant to respond to and potentially rebut the claim with competent evidence, which the USPTO must then consider before making a determination as to whether the registration should be cancelled in whole or in part, as appropriate.

For expungement and reexamination proceedings instituted based on a petition under proposed § 2.91, the determination of whether a prima facie case has been made is based on the evidence and information that is collected as a result of the petitioner's reasonable investigation and set forth in the petition along with the USPTO's electronic record of the involved registration. Appropriate sources of such evidence and information include those listed in proposed § 2.91(d)(2).

For Director-initiated expungement and reexamination proceedings, the evidence and information that may be relied upon to establish a prima facie case may be from essentially the same sources as in the petition-initiated proceeding.

G. Notice of Petition and Proceedings

When a petitioner files a petition requesting institution of expungement or reexamination proceedings, the petition will be uploaded into the registration record and viewable through TSDR. The USPTO plans to send a courtesy email notification to the registrant and/or registrant's attorney, as appropriate, if a valid email address is of record. The registrant may not respond to this courtesy notice. No response from the registrant will be accepted unless and until the Director institutes a proceeding under proposed § 2.92.

Once the Director has determined whether to institute a proceeding based on the petition, notice of that determination will be sent to the petitioner and the registrant, along with the means to access the petition and supporting documents and evidence.

If a proceeding is instituted, the petitioner will not have any further involvement. In the case of Director-initiated proceedings, there is no petitioner, and thus all relevant notices will be provided only to the registrant. In both types of proceedings, official documents associated with the proceeding will be uploaded into the registration record and will be publicly viewable through TSDR.

Under the TMA and proposed § 2.92(c)(1), any determination by the Director whether to institute an expungement or reexamination proceeding, based either on a petition or on the Director's own initiative, is final and non-reviewable. See Public Law 116–260, Div. Q, Tit. II, Subtit. B, § 225(a), (c).

Finally, for purposes of correspondence relating to these proceedings, the ''registrant'' is the owner/holder currently listed in USPTO records.

H. Procedures for Expungement and Reexamination Proceedings

Under proposed § 2.92(f), a proceeding is instituted by notifying the registrant through an Office action, which, in accordance with proposed § 2.93(a), will require the registrant to provide such evidence of use, information, exhibits, affidavits, or declarations as may be reasonably necessary to rebut the prima facie case by establishing that the required use in commerce has been made on or in connection with the goods and/or services at issue as required by the Act. While institution necessitates a response from the registrant that includes evidence rebutting the prima facie case, the ultimate burden of proving nonuse by a preponderance of the evidence remains with the Office.

Although the Office action will be substantively limited in scope to the question of use in commerce, the registrant will also be subject to the requirements of §§ 2.11 (requirement for representation), 2.23 (requirement to correspond electronically), and 2.189 (requirement to provide a domicile address). Thus, the USPTO will require the registrant to furnish domicile information to determine whether the registrant is required to be represented by a U.S.-licensed attorney. In addition, all registrants will be required to provide a valid email address for correspondence, if one is not already in the record, and to update the email address as necessary to facilitate communication with the USPTO.

The TMA provides that any documentary evidence of use provided by the registrant need not be the same as that required under the USPTO's rules of practice for specimens of use under section 1(a) of the Act, 15 U.S.C. 1051(a), but must be consistent with the definition of ''use in commerce'' set forth in section 45 of the Act, 15 U.S.C. 1127, and in relevant case law. Although testimonial evidence may be submitted, it should be supported by corroborating documentary evidence.

The expected documentary evidence of use in most cases will, in fact, take the form of specimens of use, but the TMA contemplates situations where, for example, specimens for particular goods and/or services are no longer available, even if they may have been available at the time the registrant filed an allegation of use. In these cases, the registrant may be permitted to provide additional evidence and explanations supported by declaration to explain how the mark was used in commerce at the relevant time. As a general matter, because the registration file, including any specimens, already has been considered in instituting the proceeding based on a prima facie case of nonuse, merely resubmitting the same specimen of use previously submitted prior to registration or a verified statement alone, without additional supporting evidence, will likely be insufficient to rebut a prima facie case of nonuse.

For expungement proceedings, the registrant's evidence of use must show that the use occurred before the filing date of the granted petition to expunge

under § 2.91(a), or before the date the proceeding was instituted by the Director under § 2.92(b), as appropriate. For reexamination proceedings, the registrant's evidence of use must demonstrate use of the mark on or in connection with the goods and/or services at issue on or before the relevant date established under the TMA and the relevant section of the Act.

Under proposed § 2.93(b)(4)(ii), a registrant in an expungement proceeding may provide verified statements and evidence to establish that any nonuse as to particular goods and/or services with a sole registration basis under section 44(e) of the Act, 15 U.S.C. 1126(e), or section 66(a) of the Act, 15 U.S.C. 1141f(a), is due to special circumstances that excuse such nonuse, as set forth in § 2.161(a)(6)(ii). However, excusable nonuse will not be considered for any goods and/or services registered under section 1 of the Act, 15 U.S.C. 1051.

Proposed § 2.93(d) provides that a registrant in an expungement or reexamination proceeding may also respond to an Office action by deleting some or all of the goods and/or services at issue in the proceeding and that an acceptable deletion will be immediately effective. The proposed rule further specifies that no other amendment to the identification of goods and/or services in a registration will be permitted as part of the proceeding. If goods and/or services that are subject to an expungement or reexamination proceeding are deleted after the filing, and before the acceptance, of an affidavit or declaration under section 8 or 71 of the Act, the deletion will be subject to the fee under § 2.161(c) or § 7.37(c).

In addition, a registrant may submit a request to surrender the subject registration for cancellation under § 2.172 or a request to amend the registration under § 2.173, but the mere filing of these requests will not constitute a sufficient response to an Office action requiring the registrant to provide evidence of use of the mark in the expungement or reexamination proceeding. The registrant must affirmatively notify the Office of the separate request in a timely response to the Office action.

Any deletion of goods and/or services at issue in a pending proceeding requested in a response, a surrender for cancellation under § 2.172, or an amendment of the registration under § 2.173, shall render the proceeding moot as to those goods and/or services, and the Office will not make any further determination regarding the registrant's use of the mark in commerce as to those goods and/or services.

Under proposed § 2.93(b)(1), the registrant must respond to the initial Office action via TEAS within two months of the issue date. If the registrant fails to timely respond, the proposed rule provides that the USPTO will terminate the proceedings and the registration will be cancelled, in whole or in part, as appropriate. However, a registrant may request reinstatement of the registration and resumption of the proceeding if the registrant failed to respond to the Office action because of an extraordinary situation. Under proposed § 2.146(d)(2)(iv), such a petition must be filed no later than two months after the date of actual knowledge of the cancellation of goods and/or services in a registration and not later than six months after the date of cancellation as indicated in TSDR. Proposed § 2.146(c)(2) requires the registrant to include a response to the Office action with the petition.

Relatedly, proposed § 2.23(d)(3) provides that registrants are responsible for monitoring the status of their applications and registrations in the USPTO's electronic systems at least every two months after notice of the institution of an expungement or reexamination proceeding until a notice of termination issues under § 2.94, or, if no notice of institution was received, at least every six months following the issue date of the registration.

The USPTO is also considering whether proposed § 2.93 should provide that, when a timely response by the registrant is a bona fide attempt to advance the proceeding and is a substantially complete response to the Office action, but consideration of some matter or compliance with a requirement has been omitted, the registrant may be granted thirty days, or to the end of the response period set forth in the Office action to which the substantially complete response was submitted, whichever is longer, to resolve the issue before the question of terminating the proceeding is considered. The USPTO seeks comments on whether to include this provision.

In addition, the USPTO is considering whether it should take additional action when a registrant's failure to respond in an expungement or reexamination proceeding leads to cancellation of some of the goods and/or services in the registration. Specifically, the USPTO is considering whether, in these cases, the registration should also be selected for audit under 37 CFR 2.161(b) or 7.37(b) if a registration maintenance filing is pending or, if one is not pending, when the next maintenance filing is submitted. As under current practice, if selected for audit, the registrant would be required to substantiate use for some or all of the remaining goods and/or services recited in the registration. The USPTO seeks comments on this alternative.

If the registrant timely responds to the initial Office action in the expungement or reexamination proceeding, the USPTO will review the response to determine if use of the mark in commerce at the relevant time has been established for each of the goods and/or services at issue. If the USPTO finds during the course of the proceeding that the registrant has demonstrated relevant use of the mark in commerce on or in connection with the goods and/or services at issue sufficient to rebut the prima facie case, demonstrated excusable nonuse in appropriate expungement cases, or deleted the relevant goods and/or services, such that no goods and/or services remain at issue, the USPTO will issue a notice of termination under proposed § 2.94, the proceeding will be terminated, and the registration will not be cancelled.

If, however, the response fails to establish use of the mark in commerce at the relevant time (or excusable nonuse, if applicable) for all of the goods and/or services at issue, or otherwise fails to comply with all outstanding requirements, the USPTO will issue a final action. In an expungement proceeding, the final action will include the examiner's decision that the registration should be cancelled for each good or service for which the mark was determined to have never been used in commerce or for which no excusable nonuse was established. In a reexamination proceeding, the final action will include the examiner's decision that the registration should be cancelled for each good and/or service for which it was determined the mark was not in use in commerce on or before the relevant date. As appropriate, in either an expungement or reexamination proceeding, the final action will include the examiner's decision that the registration should be cancelled in whole for noncompliance with any requirement under §§ 2.11, 2.23, and 2.189.

If a final action is issued, the registrant will have two months to file a request for reconsideration or an appeal to the TTAB, if appropriate. In accordance with proposed §§ 2.93(c)(3)(ii) and 2.94, if the registrant fails to timely appeal or file a request for reconsideration that establishes use of the mark in commerce

at the relevant time for all goods and/or services that remain at issue in a final action (or that deletes the relevant goods and/or services), the USPTO will issue a notice of termination of the proceeding, clearly setting forth the goods and/or services for which relevant use was, or was not, established, as well as any other additional outstanding requirements. The notice of termination is a statement intended to provide notice to the registrant and the public of the ultimate outcome of the proceedings and is not itself reviewable. The USPTO will also issue, as appropriate, an order cancelling the registration in whole or in part in accordance with the examiner's decision in the final action. The proposed rule provides that, if the registrant fails to timely respond, the USPTO will terminate the proceedings, and the registration will be cancelled, in whole or in part, as appropriate. However, a registrant may request reinstatement of the registration and resumption of the proceeding if the registrant failed to respond to the Office action because of an extraordinary situation. Under proposed § 2.146(d)(2)(iv), such a petition must be filed no later than two months after the date of actual knowledge of the cancellation of goods and/or services in a registration and may not be filed later than six months after the date of cancellation in TSDR. Proposed § 2.146(c)(2) requires the registrant to include a response to the Office action with the petition.

Under proposed § 2.94, if the required use in commerce (or excusable nonuse, in appropriate cases) is not established, the notice of termination will indicate a cancellation of either some of the goods and/or services or the entire registration, depending on the circumstances. If the goods and/or services for which use (or excusable nonuse) was not demonstrated are the only goods and/or services in the registration, or there remain any additional outstanding requirements, the whole registration will be cancelled. However, if the notice of termination relates only to a portion of the goods and/or services in the registration, and there are no other outstanding requirements, the registration will be cancelled in part, as appropriate. A notice of termination will not issue until all outstanding issues are satisfactorily resolved (and thus no cancellation is necessary) or the time for appeal has expired or any appeal proceeding has terminated. Petitioners and other interested parties may monitor the progress of a proceeding by reviewing the status and associated documents through TSDR.

In setting the proposed deadlines for expungement and reexamination proceedings, the USPTO considered the amount of time a registrant might need in order to research and collect relevant evidence of use, as well as the fact that some proceedings may involve more goods and/or services than others. The USPTO also weighed these considerations against the goal that these proceedings be faster and more efficient than other available options for cancellation of registrations for marks not used with goods and/or services listed therein, as well as the fact that most registrants are likely to have evidence of use that is contemporaneous with the relevant date at issue.

I. Estoppel and Co-Pending Proceedings

Proposed § 2.92(d) includes provisions for estoppel and bars co-pending proceedings involving the same registration and the same goods and/or services.

Specifically, proposed § 2.92(d)(1) provides that, upon termination of an expungement proceeding, including after any appeal, where it has been established that the registered mark was used in commerce on or in connection with any of the goods and/or services at issue in the proceedings prior to the date a petition to expunge was filed under proposed § 2.91 or the Director-initiated proceedings were instituted under proposed § 2.92, no further expungement proceedings may be instituted as to those particular goods and/or services. Subsequent reexamination proceedings for marks registered under section 1 of the Act are not barred under these circumstances because reexamination proceedings involve a question of whether the mark was in use in commerce as of a particular relevant date, whereas earlier expungement proceedings would only have involved a determination of whether the mark was never used. Proof of use sufficient to rebut a prima facie case of nonuse in an expungement proceeding might not establish use as of a particular relevant date, as required in a reexamination proceeding.

Proposed § 2.92(d)(2) provides that, upon termination of a reexamination proceeding, including after any appeal, where it is determined that the registered mark was used in commerce on or in connection with any of the goods and/or services at issue, on or before the relevant date at issue in the proceedings, no further expungement or reexamination proceedings may be instituted as to those particular goods and/or services. The TMA does not explicitly bar a subsequent expungement proceeding following a determination in a reexamination proceeding. However, the rule takes into account that it would be unnecessary for the registrant to be subjected to a later-instituted proceeding alleging the mark was never used in commerce when the USPTO has already determined that the mark was used in commerce on or before the relevant date.

In addition, proposed § 2.92(d)(3) provides that, with respect to a particular registration, while an expungement proceeding is pending, no later expungement proceeding may be instituted with respect to the same goods and/or services at issue in the pending proceeding. Proposed § 2.92(d)(4) establishes that, with respect to a particular registration, while a reexamination proceeding is pending, no later expungement or reexamination proceeding may be instituted with respect to the same goods and/or services at issue in the pending proceeding.

For the purposes of these rules, the wording ''same goods and/or services'' refers to identical goods and/or services that are the subject of the pending proceeding or the prior determination. Thus, for example, if a subsequent petition for reexamination identifies goods that are already the subject of a pending reexamination proceeding and goods that are not, only the latter goods could potentially be the subject of a new proceeding. The fact that there is some overlap between the goods and/or services in the pending proceeding and those identified in a petition would not preclude the goods and/or services that are not the same from being the subject of a new proceeding, if otherwise appropriate. This situation is addressed in proposed rule § 2.92(c)(2), which permits the Director to institute a proceeding on petition for fewer than all of the goods and/or services identified in the petition.

II. New Nonuse Ground for Cancellation Before the TTAB

The TMA created a new nonuse ground for cancellation under section 14 of the Act, allowing a petitioner to allege that a mark has never been used in commerce as a basis for cancellation before the TTAB. This ground is available at any time after the first three years from the registration date. Therefore, the USPTO proposes amending § 2.111(b) to indicate when a petition on this ground may be filed and to distinguish it from the timing of other nonuse claims.

III. Flexible Response Periods

The TMA amended section 12(b) of the Act, 15 U.S.C. 1062(b), to allow the

USPTO to set response periods by regulation for a time period between 60 days and 6 months, with the option for extensions to a full 6-month period. Under current § 2.62(a), applicants have six months to respond to Office actions issued during examination of a trademark application. Many examination issues, particularly formal requirements like amendments to identifications or mark descriptions, can be resolved well before the current six-month deadline. However, the USPTO also recognizes that Office actions containing statutory refusals may present complex issues that require more time to address, and thus applicants and their attorneys may need the full response period to prepare and submit a response.

USPTO data analytics indicate that, in fiscal year (FY) 2020, 42% of represented applicants and 66% of unrepresented applicants responded to an Office action with a single substantive ground of refusal within three months from the issuance of a non-final Office action. Where the Office action covered multiple refusals, 31% of represented applicants and 56% of unrepresented applicants responded within three months.

Accordingly, the USPTO proposes amending § 2.62 to set a response period of three months for responses to Office actions in applications under sections 1 and/or 44 of the Act. Under proposed § 2.62(a)(2), applicants may request a single three-month extension of this three-month deadline, subject to payment of the fee in proposed § 2.6(a)(27), namely, $125 for an extension request filed through TEAS and $225 for a permitted paper-filed request. To be considered timely, the request for an extension must be received by the USPTO on or before the deadline for response, which, consistent with current examination practice, will be set forth in the Office action. If an applicant fails to respond or request an extension within the specified time period, the application will be abandoned. This extension will not affect the existing practice under § 2.65(a)(2) that permits an examiner to grant an applicant 30 days, or to the end of the response period set forth in the action to which a substantially complete and timely response was submitted, whichever period is longer, to explain or supply an omission. The proposed amendments to § 2.66 address the requirement for the extension fee in situations where an applicant files a petition to revive past a three-month deadline.

Although post-registration actions are not subject to the response provisions in section 12 of the Act, for convenience and predictability, the USPTO proposes to have the same three-month response period and single three-month extension apply to Office actions issued in connection with post-registration review of registration maintenance and renewal filings.

However, applications under section 66(a) of the Act will not be subject to the three-month deadline for Office action responses; the deadline will instead remain at six months. USPTO data analytics indicate that in FY 2020, only 11% of Madrid applicants filed a response to a non-final Office action with multiple grounds within three months, while 62% of Madrid applicants took six months to file a response. The additional processing required for these applications, both at the USPTO and the World Intellectual Property Organization's International Bureau, per article 5(2) of the Madrid Protocol, introduces time constraints that justify maintaining the current deadlines.

These flexible response periods are intended to promote efficiency in examination by shortening the prosecution timeline for applications with issues that are relatively simple to address, while providing sufficient time, through an optional extension, for responses to Office actions with more complex issues. In addition, shorter response periods may result in faster disposal of applications and thus reduce the potential delay in examination of later-filed applications for similar marks.

The proposed rule includes conforming revisions to §§ 2.63, 2.65, 2.66, 2.141, 2.142, 2.163, 2.165, 2.184, 2.186, 7.6, 7.39, and 7.40 to account for the proposed deadlines and extensions.

These flexible response periods and extensions will likely involve significant changes to examination processes and the USPTO's information technology (IT) systems. Although the rules regarding expungement and reexamination proceedings must be implemented within one year of the TMA's enactment, there is no required date of implementation for the flexible response and extension provisions. The Office proposes a delayed implementation date of June 27, 2022, in order to allow customers to update their practices and IT systems for these changes. The USPTO seeks comments on this approach.

Finally, the USPTO is seeking comments on two alternatives to the procedures proposed above. One alternative under consideration is a two-phase examination system, with each phase having separate shortened, but extendable, response periods. This alternative may allow more flexibility in setting response periods to promote efficiency in examination to address the recent increase in applications. For example, a USPTO examiner could review application formalities and issue a formalities Office action with a shortened response period of two months, extendable in two-month increments to a full six months upon request and payment of a fee. Once the formalities are addressed, the application could enter the second phase of the examination, whereby an examiner would issue an Office action, containing any substantive refusals, that identifies a response deadline of the time of three months, extendable for another three months to a total of six months, upon request and payment of a fee.

The other alternative under consideration is to set the initial period for responding to an Office action at two months, but allow applicants to file a response in the third, fourth, fifth, or sixth month after issuance of the Office action by submitting an extension request and fee payment along with the response. The fee for extension would be progressively higher the later the filing of the response and extension request. For example, responses filed in the third, fourth, fifth, and sixth month after issuance of the Office action would have an extension fee of $50, $75, $125, and $150, respectively. An application would be abandoned when a response is not received within the two-month period or such other extended deadline as requested and paid for by applicant, not to exceed six months from the Office action issue date. If an application abandons, the applicant may submit a petition to revive the application that must include the applicable petition fee and the appropriate extension fee. For example, if the petition to revive is filed in the fifth month after the Office action issues, the extension fee would be $125. If the petition is filed in the sixth month or later, the extension fee would be $150. The USPTO seeks comments on these alternatives.

IV. Letters of Protest

The TMA amends section 1 of the Act, 15 U.S.C. 1051, to add a new paragraph (f), providing express statutory authority for the USPTO's existing letter-of-protest procedure, which allows third parties to submit to the USPTO for consideration and entry into the record evidence bearing on the registrability of a mark. This procedure is intended to aid in examination without causing undue delay or compromising the integrity and

objectivity of the ex parte examination process. The TMA also provides that the Director shall determine whether evidence should be included in the record of the relevant application within two months of the date on which a letter-of-protest submission is filed.

The USPTO promulgated letter-of-protest procedures at 37 CFR 2.149 in a final rule published in the **Federal Register** on November 17, 2020 (85 FR 73197). The requirements set out in § 2.149 are consistent with those in the TMA. However, the TMA further provides that any determination by the Director of the USPTO whether to include letter-of-protest evidence in the record of an application shall be final and non-reviewable, and that such a determination shall not prejudice any party's right to raise any issue and rely on any evidence in any other proceeding. *See* Public Law 116–260, Div. Q, Tit. II, Subtit. B, § 223(a) (Dec. 27, 2020). The USPTO proposes to revise § 2.149 to include these additional provisions.

The TMA also authorizes the USPTO to charge a fee for letters of protest. *Id.* Under existing § 2.6(a)(25), the USPTO currently charges $50 per letter-of-protest submission. That fee is not changed in this proposed rulemaking.

V. Suspension of Proceedings

The USPTO proposes to revise §§ 2.67 and 2.117 to clarify that expungement and reexamination proceedings are included among the types of proceedings for which suspension of action by the Office or the TTAB is authorized. In addition, the USPTO proposes to revise these rules to align them with the existing practice regarding suspension of proceedings before the USPTO or the TTAB. Generally, the USPTO will suspend prosecution of a trademark application or a matter before the TTAB during the pendency of a court or TTAB proceeding that is relevant to the issue of registrability of the involved mark, and so the USPTO proposes to eliminate the limitation in § 2.117 to other proceedings in which a party or parties are engaged.

Suspension normally will be maintained until the outcome of the proceeding has been finally determined. As set forth in the current version of the Trademark Trial and Appeal Board Manual of Procedure § 510.02(b), the USPTO considers a proceeding to have been finally determined when an order or ruling that ends litigation has been rendered and noticed, and no appeal has been filed, or all appeals filed have been decided and the time for any further review has expired without further review being sought. The expiration of any further review includes the time for petitioning for rehearing or U.S. Supreme Court review. Thus, the Office normally will not lift a suspension until after the time for seeking such review has expired, a decision denying or granting such review has been rendered, and any further review has been completed.

VI. Attorney Recognition

The USPTO proposes revising § 2.17(g) to indicate that, for the purposes of an application or registration, recognition of a qualified attorney as the applicant's or registrant's representative will continue until the owner revokes the appointment or the attorney withdraws from representation. Thus, recognition would continue when, for example, an application abandons, post-registration documents are filed and accepted, or a registration expires or is cancelled. Accordingly, to end attorney recognition by the USPTO under the proposed rule, owners and attorneys would be required to proactively file an appropriate revocation or withdrawal document under § 2.19, rather than the current situation, where recognition automatically ends when one of the events listed in current § 2.17(g) occurs.

Under current § 2.17(g), once recognition has ended because of one of these events, either the previously recognized attorney or a newly appearing attorney may be recognized as the attorney of record by signing a submission to the USPTO on behalf of the applicant or registrant or by being named as the attorney in a submission filed on behalf of the applicant. *See* 37 CFR 2.17(b)(1)(ii), (iii). By contrast, under the proposed revision to § 2.17(g), if the applicant or registrant wishes to retain a new attorney for submissions to the USPTO following abandonment or registration, the applicant or registrant would be required to revoke the original power of attorney, or the attorney would need to request to withdraw from representation, before a new attorney could be recognized.

The proposed revision to § 2.17(g) would also apply to attorney recognition when a change of ownership occurs. The USPTO does not require an assignment to be filed when a change of ownership occurs, and when an assignment is filed, the ownership information must be reviewed and manually entered into the relevant database fields. Therefore, the USPTO records may not reflect that an ownership change has occurred, and, in some cases, an ownership change does not result in a change in attorney representation. Accordingly, under the proposed rule, recognition of the attorney of record will continue, even when there is a change of ownership, until the attorney affirmatively withdraws or representation is revoked.

The USPTO is proposing this revision because current § 2.17(g) does not align with USPTO practice under § 2.18(a), which requires the USPTO to correspond with the applicant's or registrant's attorney if one is recognized. Section 2.18 states that the USPTO will correspond only with the applicant or registrant if the applicant or registrant is not represented by an attorney. Further, because recognition of representation ends at registration or abandonment under current § 2.17(g), the USPTO should cease recognition of the attorney and stop sending correspondence to the attorney's correspondence address. However, the USPTO's existing practice reflects that, in most cases, after an occurrence of an event list in current § 2.17(g), representation continues and the attorney is the intended recipient of the trademark registration certificate, renewal reminders, and any other correspondence. For this reason, the USPTO continues to send correspondence to the attorney of record, except in connection with petitions to cancel filed with the TTAB, which are served on the registrant.

The USPTO's existing practice concerning attorney information is based on feedback from some stakeholders who expressed a preference for the USPTO to retain the information in the USPTO's database so that they would continue to receive correspondence without needing to be re-designated as attorney of record. In addition, despite the requirements of §§ 2.18(c) and 2.23(a), registrants do not always maintain up-to-date correspondence addresses. Therefore, they might not receive correspondence from the USPTO regarding post-registration actions, such as USPTO courtesy reminder notices to registrants regarding the time periods to file maintenance or renewal documents. Likewise, registrants who do not update their correspondence address might not receive notices of a petition to cancel filed with the TTAB. To help ensure receipt, in addition to emailing certain notices to the registrant's email address, the USPTO generally also emails them to the former attorney's email address.

Furthermore, the proposed revision is needed to facilitate implementation of a role-based access control system intended to improve USPTO database integrity. The USPTO recently required anyone filing applications or other documents to create a *MyUSPTO.gov*

account to log in and access the filing and response forms in TEAS. This login requirement is intended to increase the security of the USPTO's electronic systems. In the near future, the USPTO plans to introduce identity verification requirements, assign roles to customer accounts (role-based access control), and restrict access to files to exclude actions by unauthorized parties. As part of the USPTO's forthcoming identity verification process, users are likely to be assigned a limited number of roles to control and delegate access to filings, including attorney, attorney support, owner, and public administrator roles. If the USPTO were to retain § 2.17(g) in its current form, while the last attorney of record could submit the TEAS form to file a maintenance document, the role-based access controls would require the attorney to first request IT permission from the owner to do so. This could result in missed deadlines.

Another consideration in revising this rule is the USPTO's continued efforts to track and combat misleading solicitations sent to trademark applicants and registrants. These misleading solicitations often offer unnecessary services to owners of trademark applications and registrations, and are created so as to deceive owners into believing the solicitations are official USPTO correspondence. Some of these solicitations offer services that are never provided, potentially putting a trademark application or registration at risk of abandonment, cancellation, or expiration. In other cases, these entities may engage in the unauthorized practice of law and file renewals and affidavits with bad specimens of use or improper signatures. These entities also frequently charge inflated fees for questionable and predominantly unnecessary services. Because an experienced trademark attorney may be in a better position than an unrepresented applicant or registrant to discern whether a particular item of correspondence is legitimate, the continuation of attorney recognition after abandonment or registration would allow attorneys of record to either intercept potentially fraudulent correspondence from reaching registrants or be alerted to solicitations their clients are receiving and counsel them appropriately.

Should the proposed revision to § 2.17(g) become effective, the USPTO plans to remove the name of any attorney whose recognition has already ended under existing § 2.17(g) from the current attorney-of-record field in the USPTO's database, along with the attorney's bar information and any docketing information. However, the attorney's correspondence information, including any correspondence email address, will be retained so that relevant correspondence and notices can continue to be sent to both the formerly recognized attorney and the owner. This will facilitate a period of transition to the new attorney recognition procedures while allowing the USPTO to proceed with its plans to implement updates to TEAS login processes. In accordance with § 2.17(b)(1), any attorney whose name is removed as attorney of record for this reason who wishes to be re-recognized as attorney of record may do one of the following: (1) File an attorney appointment consistent with § 2.17(c); (2) sign a document on behalf of an unrepresented applicant, registrant, or party to a proceeding; or (3) appear by being identified as the attorney of record in a document submitted to the USPTO on behalf of an unrepresented applicant, registrant, or party to a proceeding.

The USPTO also proposes to add § 2.17(b)(4) to specify that, when a practitioner has been mistakenly, falsely, or fraudulently designated as an attorney for an applicant, registrant, or party to a proceeding without the practitioner's prior authorization or knowledge, recognition of that practitioner shall be ineffective.

In addition, the USPTO proposes to revise § 2.18(a)(1) to refer to ''recognition'' instead of ''representation,'' consistent with the wording in § 2.18(a)(2). The term ''recognition'' reflects the fact that the USPTO does not control representation agreements between practitioners and clients but merely recognizes an attorney for purposes of representation before the USPTO. A revision is also proposed for § 2.18(a)(2) to indicate that, as with service of a cancellation petition, the USPTO may correspond directly with a registrant in connection with notices of institution of expungement or reexamination proceedings. Accordingly, the USPTO plans to send notices of institution of expungement and reexamination proceedings to the owner currently identified in the registration record and to the attorney of record, if any, or any previous attorney of record whose contact information is still in the record.

The USPTO also proposes revising § 2.19 to clarify practitioner obligations when withdrawing from representation and to specifically differentiate the grounds under which the attorney may request to withdraw versus those situations where an attorney must request withdrawal, consistent with the USPTO Rules of Professional Conduct. See 37 CFR 11.116.

Finally, the USPTO proposes amending § 2.61 to remove paragraph (c), which provides that, ''[w]henever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, each party and also the attorney shall be notified of this fact.'' This provision directly conflicts with § 2.18, and the attorney conduct addressed by this rule is encompassed and superseded by the USPTO Rules of Professional Conduct. See 37 CFR 11.107, 11.108.

VII. Court Orders Concerning Registrations

The USPTO also proposes the new § 2.177 to codify the USPTO's longstanding procedures concerning action on court orders cancelling or affecting a registration under section 37, 15 U.S.C. 1119, that are currently set forth in § 1610 of the Trademark Manual of Examining Procedure. The USPTO requires submission of a certified copy of the order and normally does not act on such orders until the case is finally determined.

Discussion of Proposed Rule Changes

The USPTO proposes to add § 2.6(a)(26) to establish a fee of $600, per class, for filing a petition for expungement and/or reexamination under § 2.91. The USPTO proposes to add § 2.6(a)(27)(i) to establish a fee of $225 for a request for an extension of time for filing a response to an Office action, under §§ 2.62(a)(2), 2.163(c), 2.165(c), 2.184(a)(2), or 2.186(c), on paper and § 2.6(a)(27)(ii) to establish a fee of $125 for a request for an extension of time for filing a response to an Office action, under §§ 2.62(a)(2), 2.163(c), 2.165(c), 2.184(a)(2), or 2.186(c), via TEAS.

The USPTO proposes to amend § 2.11(d) to add cross-reference citations to §§ 2.93, 2.163, and 7.39, and to amend § 2.11(f) to add a cross-reference citation to § 2.93(c)(1).

The USPTO proposes to add § 2.17(b)(4) to specify that when a practitioner has been mistakenly, falsely, or fraudulently designated as a representative for an applicant, registrant, or party to a proceeding without the practitioner's prior authorization or knowledge, recognition of that practitioner shall be ineffective.

The USPTO proposes to amend § 2.17(g) to indicate that, for the purposes of a pending application or registration, recognition of a power of attorney will continue until the applicant or registrant revokes it or the attorney withdraws from representation.

The USPTO proposes to amend § 2.18 to revise paragraph (a)(1) to clarify the

circumstances when the Office will communicate directly with an applicant, registrant, or party to a proceeding and to revise paragraph (a)(2) to indicate that, with respect to notices of institution of expungement and reexamination proceedings, the Office may correspond directly with the applicant, registrant, or party to a proceeding.

The USPTO proposes to amend § 2.19 to revise paragraph (b) and add paragraphs (c) and (d) to better align this rule with attorney obligations under the USPTO Rules of Professional Conduct by clarifying practitioner obligations regarding withdrawing from representation and aligning the rules for permissive withdrawal with Office practice.

The USPTO proposes to amend § 2.23 to add paragraph (d)(3) to address the duty to monitor the status of a registration once an expungement or reexamination proceeding has been instituted.

The USPTO proposes to amend § 2.61 to remove paragraph (c).

The USPTO proposes to amend § 2.62 to revise paragraph (a) to provide for flexible response periods and extensions of time to respond and paragraph (c) to include a reference to requests for extensions of time to respond.

The USPTO proposes to amend § 2.63 to revise paragraph (b) to include a request for an extension of time to respond or appeal under § 2.62(a)(2) as a response option, and other minor stylistic changes; to revise paragraph (c) to include a reference to requests for extensions of time to respond or appeal under § 2.62(a)(2), and other minor stylistic changes; and to revise paragraph (d) to remove the wording ''six-month.''

The USPTO proposes to amend § 2.65 to revise paragraph (a) to replace ''six months from the date of issuance'' with ''the relevant time period for response under § 2.62(a), including any granted extension of time to respond under § 2.62(a)(2).''

The USPTO proposes to amend § 2.66 to revise paragraph (b)(1) to replace the citation to § 2.6 with a citation to § 2.6(a)(15); revise paragraph (b)(3) by removing a portion to create new paragraph (b)(5); and add paragraph (b)(4) to include a provision for Office actions with a three-month response period.

The USPTO proposes to amend § 2.67 to codify the existing practice regarding suspension of proceedings before the USPTO and the TTAB.

The USPTO proposes to revise the undesignated center heading appearing before § 2.91 from ''CONCURRENT USE PROCEEDINGS'' to ''EX PARTE EXPUNGEMENT AND REEXAMINATION.''

The USPTO proposes to add § 2.91 to set forth the procedures for petitions for expungement or reexamination.

The USPTO proposes to add § 2.92 to set forth the procedures for instituting ex parte expungement and reexamination proceedings.

The USPTO proposes to add § 2.93 to set forth the procedures for conducting expungement and reexamination proceedings.

The USPTO proposes to add § 2.94 to set forth the procedures for action after expungement or reexamination.

The USPTO proposes to add the undesignated center heading ''CONCURRENT USE PROCEEDINGS'' before existing § 2.99.

The USPTO proposes to revise the undesignated center heading appearing before § 2.111 from ''CANCELLATION'' to ''CANCELLATION PROCEEDINGS BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD'' to differentiate cancellation proceedings before the TTAB from ex parte expungement and reexamination proceedings.

The USPTO proposes to amend § 2.111(b) to specify the time for filing a petition for cancellation with the TTAB on the ground specified in § 14(6) of the Act and to distinguish it from the timing of other nonuse claims.

The USPTO proposes to amend § 2.117(a) to include a reference to an expungement or reexamination proceeding instituted under § 2.92, to eliminate the limitation to other proceedings in which a party or parties are engaged, and to indicate that a civil action or proceeding is not considered to have been terminated until an order or ruling that ends litigation has been rendered and noticed and the time for any further review has expired with no further review sought.

The USPTO proposes to amend § 2.141 to revise the heading to ''Ex parte appeals from refusal to register by action of trademark examining attorney''; revise paragraph (a) to replace the six-month deadline with a reference to the deadline and extension of time under proposed § 2.62(a); and revise paragraph (b) to remove the wording ''six-month statutory'' and to clarify that, if the applicant does not submit the required fee or specify the class(es) being appealed within the set time period, the TTAB will apply the fee(s) to the class(es) in ascending order, beginning with the lowest numbered class containing goods and/or services at issue in the appeal.

The USPTO proposes to amend § 2.142 to revise paragraph (a) to replace the six-month deadline with a reference to the deadline and extension of time under proposed § 2.62(a); revise paragraph (b)(3) to include reference to proceedings involving registrations; revise paragraph (d) for clarity and to create paragraphs (d)(1) and (d)(2) to address appeals from a refusal to register and appeals from an expungement or reexamination proceeding respectively; and add a subheading to paragraph (f) to clarify that this paragraph only applies to an appeal from a refusal to register.

The USPTO proposes to add § 2.143, which sets forth the procedures and requirements for ex parte appeals in expungement and reexamination proceedings.

The USPTO proposes to amend § 2.145 to revise paragraph (a)(1) to include a reference to ex parte expungement or reexamination proceedings and to revise paragraph (c)(1) to add an exception for ex parte expungement or reexamination proceedings.

The USPTO proposes to amend § 2.146 to include expungement and reexamination in paragraph (b); revise paragraph (c) to indicate that a petition requesting reinstatement of a registration cancelled in whole or in part for failure to timely respond to an Office action issued in an expungement and/or reexamination proceeding must include a response to the Office action, signed in accordance with § 2.193; and add paragraph (d)(2)(iv) to specify the filing deadline for a petition in connection with an expungement or reexamination proceeding.

The USPTO proposes to amend § 2.149 to revise paragraph (a) to replace the word ''entry'' with ''inclusion'' and amend paragraph (i) for clarity and to replace the words ''not petitionable'' with ''final and non-reviewable and that a determination to include or not include evidence in the record shall not prejudice any party's right to raise any issue and rely on any evidence in any other proceeding.''

The USPTO proposes to amend § 2.163 to revise paragraph (b) to specify a response deadline of three months; revise paragraph (c) to provide for extensions of time to respond; add paragraph (d) to address substantially complete responses; and add paragraph (e) to set forth the wording formerly in paragraph (c) with conforming revisions.

The USPTO proposes to amend § 2.165 to revise paragraph (a) to revise the internal citation to § 2.163(b)–(c); revise paragraph (b) to specify a response deadline of three months; revise paragraph (c) to provide for

extensions of time to respond; add paragraph (d) to specify that a registration will be cancelled if a response is not timely filed; and add paragraph (e) to set forth wording formerly in paragraph (c).

The USPTO proposes to add the undesignated center heading ''COURT ORDERS UNDER SECTION 37'' before § 2.177.

The USPTO proposes to add § 2.177 to address procedures concerning action on court orders cancelling or affecting a registration under section 37 of the Act.

The USPTO proposes to amend § 2.184 to revise paragraph (b)(1) to specify a response deadline of three months; revise paragraph (b)(2) to provide for extensions of time to respond; add paragraph (b)(3) to address substantially complete responses; add paragraph (b)(4) to set forth wording formerly in paragraph (b)(1); and add paragraph (b)(5) to set forth wording formerly in paragraph (b)(2).

The USPTO proposes to amend § 2.186 to revise paragraph (b) to specify a response deadline of three months; revise paragraph (c) to provide for extensions of time to respond; add paragraph (d) to specify that a registration will expire if a response is not timely filed; and add paragraph (e) to set forth wording formerly in paragraph (c).

The USPTO proposes to amend § 2.193(e)(5) to include a reference to petitions for expungement or reexamination.

The USPTO proposes to amend § 7.6 to add paragraph (a)(9)(i) to establish a fee of $225 for a request for an extension of time for filing a response to an Office action under §§ 7.39(b) or 7.40(c) on paper and to add paragraph (a)(9)(ii) to establish a fee of $125 for a request for an extension of time for filing a response to an Office action under §§ 7.39(b) or 7.40(c) via TEAS.

The USPTO proposes to amend § 7.39 to revise paragraph (a) to specify a response deadline of three months; revise paragraph (b) to provide for extensions of time to respond; revise paragraph (c) to address substantially complete responses; revise paragraph (d) to set forth wording formerly in paragraph (b); add paragraph (e) to set forth wording formerly in paragraph (c); and add paragraph (f) to set forth wording formerly in paragraph (d).

The USPTO proposes to amend § 7.40 to revise paragraph (a) to revise the internal citation to § 7.39(b)–(c); revise paragraph (b) to specify a response deadline of three months; revise paragraph (c) to provide for extensions of time to respond; add paragraph (d) to specify that a registration will be cancelled if a response is not timely filed; and add paragraph (e) to set forth wording formerly in paragraph (c).

Rulemaking Requirements

A. *Administrative Procedure Act:* The changes proposed in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. See *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals are procedural where they do not change the substantive standard for reviewing claims); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive).

Accordingly, prior notice and opportunity for public comment for the changes proposed in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. See *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))). However, the USPTO has chosen to seek public comment before implementing the rule to benefit from the public's input.

B. *Regulatory Flexibility Act:* The USPTO publishes this Initial Regulatory Flexibility Analysis (IRFA), as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), to examine the impact of the Office's proposed changes to trademark fees on small entities and to seek the public's views. Under the RFA, whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish a notice of proposed rulemaking (NPRM), the agency must prepare and make available for public comment an IRFA, unless the agency certifies under 5 U.S.C. 605(b) that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605.

Items 1–5 below discuss the five items specified in 5 U.S.C. 603(b)(1)–(5) to be addressed in an IRFA. Item 6 below discusses alternatives to this proposal that the Office considered. The USPTO invites public comments on these items.

1. *Description of the reasons that action by the USPTO is being considered:*

The USPTO proposes to amend the rules of practice in trademark cases to implement provisions of the Trademark Modernization Act of 2020, Public Law 116–260, Div. Q, Tit. II, Subtit. B, § 228 (Dec. 27, 2020). The TMA sets a deadline of December 27, 2021, for the USPTO to promulgate rules governing letter-of-protest procedures and implementing ex parte expungement and reexamination proceedings for cancellation of a registration when the required use in commerce of the registered mark has not been made. In addition, the TMA authorizes the USPTO to promulgate rules to provide for flexible Office action response periods. The USPTO also proposes to set fees for petitions requesting institution of ex parte expungement and reexamination proceedings and for requests to extend Office action response deadlines, as required or authorized by the TMA, and to amend the rules concerning the suspension of USPTO proceedings and the rules governing attorney recognition in trademark matters.

2. *Succinct statement of the objectives of, and legal basis for, the proposed rule:*

As required or authorized by the TMA, the objective of the proposed rule is to implement the provisions of the TMA by: (1) Establishing ex parte expungement and reexamination proceedings for cancellation of a registration when the required use in commerce of the registered mark has not been made, to ensure an accurate trademark register that supports and promotes commerce; (2) amending the rules governing the USPTO's letter-of-protest procedures, which allow third parties to submit evidence to the USPTO regarding a trademark's registrability during the initial examination of the trademark application, to provide that the decision whether to include such evidence in the application record is final and non-reviewable and that such a determination shall not prejudice any party's right to raise any issue and rely on any evidence in any other proceeding; and (3) implementing flexible response periods, along with optional extensions of time, to promote efficiency in examination by shortening the prosecution timeline for applications with issues that are relatively simple to address, while providing sufficient time for response to Office actions with more complex issues. In addition, this proposed rule is also intended to formalize existing practice regarding suspension of proceedings before the Office and the TTAB; to align the rules on attorney

recognition with current USPTO practice, facilitate implementation of a role-based access control system intended to improve USPTO database integrity, and ensure trademark correspondence is sent to the appropriate party; and to add a new rule to address procedures regarding court orders cancelling or affecting registrations. Finally, the proposed rule establishes fees for the ex parte expungement and reexamination proceedings and for extensions of time to respond to an Office action.

3. *Description of and, where feasible, estimate of the number of affected small entities:*

The USPTO does not collect or maintain statistics in trademark cases on small- versus large-entity applicants, and this information would be required in order to determine the number of small entities that would be affected by the proposed rule. The proposed rule would apply to all persons who are filing a response to an Office action, are represented by an attorney, are seeking to submit a petition requesting institution of an expungement or reexamination proceeding, or are providing a response in such a proceeding.

The proposed rule includes provisions for flexible response periods to respond to Office actions. Under this proposed rule, all filers would have an option to file a no-cost response if they do so within three months of the Office action's issue date. The proposed changes would benefit all trademark owners by encouraging faster prosecution of applications, and USPTO believes this three-month response period is reasonable for all applicants, including small entities, given the efficiencies of current practices utilizing email and electronic filing and notification of all documents.

The proposed changes to the rule regarding attorney recognition benefit all parties, including small entities, by conforming USPTO rules with current practices, facilitating implementation of a role-based access control system intended to improve USPTO database integrity, and aiding the USPTO's continued efforts to track and combat misleading solicitations sent to trademark applicants and registrants.

Lastly, the proposed provisions governing the ex parte expungement and reexamination proceedings created under the TMA will benefit all parties, including small entities, by helping to ensure the accuracy of the USPTO's trademark register by cancelling registrations, in whole or in part, for which the required use of the registered mark in commerce has not been made. Moreover, these proceedings will provide a faster, more efficient, and less costly alternative to proceedings before the TTAB or civil litigation in the courts. This should decrease or eliminate the potential costs that otherwise would have been incurred to litigate in proceedings to cancel a registration or resolve a dispute over a mark, or to change business plans to avoid the use of a chosen mark when the required use has not been made.

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

The proposed rule will require creation of new online forms to submit a request to institute an expungement or reexamination proceeding, to respond to Office actions issued during such proceedings, and to request extensions of time to respond to Office actions, as further described in the preamble of this proposed rule.

The USPTO does not anticipate the proposed rule to have a disproportionate impact upon any particular class of small or large entities. Any entity that has a pending trademark application or a registered trademark could potentially be impacted by this proposed rule.

The professional skills necessary for completion of the online forms are not more burdensome than the skills necessary for completion of current USPTO reporting requirements and would not be disproportionately burdensome for small entities.

5. *Identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule:*

The proposed rule would not duplicate, overlap, or conflict with any other Federal rules.

6. *Description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities:*

The TMA mandates the framework for many of the procedures proposed in this rulemaking, particularly in regard to the changes to the letter of protest procedures and most of the procedures for the new ex parte expungement and reexamination proceedings, except for those indicated below. Thus, the USPTO has little to no discretion in the rulemaking required to implement those procedures. Accordingly, the discussion below addresses only those provisions for which alternatives were possible because the TMA provided the Director discretion to implement regulations. In those cases, the USPTO chose the option that best balanced the need to achieve the stated objectives with the need to create processes that are the least burdensome on all parties.

Fees: As authorized by the TMA, the proposed rule establishes fees for petitions requesting ex parte expungement or reexamination of a registration and for extensions of time to respond to an Office action. The USPTO proposes a fee of $600 per class for a petition requesting ex parte expungement or reexamination of a registration, with the intent to balance the need for cost recovery with the objective of providing a lower-cost alternative for third parties to seek cancellation of registered marks for which the required use in commerce has not been made. The USPTO considered alternative fee proposals for these newly created ex parte proceedings. One option was to charge $250 per petition, which is the same amount as the current fee for electronically filed petitions to the Director under § 2.146. However, that amount was determined to be insufficient for cost recovery because petitions for expungement or reexamination are different proceedings than other petitions to the Director, because reviewing these petitions and conducting any resulting proceeding will require more time and resources. Therefore they are likely to incur higher processing costs. In addition, the USPTO considered setting the fee at $1,000 per class of goods or services involved in the petition. However, this amount was deemed too high in view of the USPTO's objective to provide an inexpensive mechanism for cancellation of a registration when the required use in commerce of the registered mark has not been made.

The USPTO is also proposing a fee of $125 for electronically filed extensions of time to respond to an Office action and a fee of $225 for such extensions that are filed on paper. These fees are consistent with the current fees for requesting an extension of time to file a statement of use and are intended to recover associated costs while incentivizing applicants to respond to Office actions within the initial three-month deadline. The USPTO considered the alternative to charge no fee for such extensions, but that option would not aid in cost recovery and would not provide an incentive to respond earlier, undermining the purpose of the proposed flexible response periods.

Limit on petitions requesting expungement or reexamination: The

USPTO is not currently proposing a limitation on the number of petitions for expungement or reexamination that can be filed against a registration. However, the Office did consider such a limit of petition-initiated proceedings against a registration that had already been the subject of instituted proceedings in order to provide a definite end to challenges, leaving any further challenges to TTAB cancellation proceedings. Considering that there are already safeguards in place to prevent abuse, the Office was concerned that imposing artificial limitations might undermine the utility of the proceedings to clear the register of unused marks. In addition, the USPTO considered the alternatives of limiting the number of petitions a particular petitioner or real party in interest may file, but those options did not further the ultimate purpose of the expungement or reexamination proceeding, which is to cancel a registration in whole or in part when evidence shows that use of the mark in commerce has not been made.

Reasonable investigation and evidence: Under the TMA and the proposed rule, a petition for expungement or reexamination must include a verified statement that sets forth the elements of the reasonable investigation the petitioner conducted to determine that the mark was never used in commerce (for expungement petitions) or not in use in commerce as of the relevant date (for reexamination petitions) on or in connection with the goods and/or services identified in the petition. The proposed rule defines a ''reasonable investigation'' as one that is based on available information and must include searches calculated to return information about the underlying inquiry from reasonably accessible sources where evidence concerning use of the mark during the relevant time period on or in connection with the relevant goods and/or services would normally be found. The proposed rule indicates that a sufficient reasonable investigation will depend on the individual circumstances, but includes a non-exhaustive list of sources of evidence for a reasonable investigation. These include State and Federal trademark records, internet websites, records from State and Federal agencies, litigation records, knowledge of marketplace activities, and any other reasonably accessible source with information relevant to whether the mark at issue was used in commerce.

The USPTO considered an alternative approach of providing a more exhaustive list of the types of evidence that would meet the burden for these newly created proceedings. However, the USPTO acknowledges that the types of evidence will vary by industry and the types of goods and services being challenged. Therefore, it is not practical to create a complete list in the rule that would apply in all situations. Instead, the USPTO opted to identify a standard in line with the statute and legislative history, and to include a non-exhaustive list of efforts and evidence to meet the standard. This alternative provides guidance to filers while not limiting them to specific types of evidence listed in the rule.

Director-initiated proceedings: The TMA authorizes Director-initiated expungement and reexamination proceedings. In addition to the requirements in the TMA, the proposed rule explains that the Director may institute a proceeding that includes additional goods and/or services identified in the subject registration on the Director's own initiative and consolidate consideration of the new proceeding with the pending proceeding. The USPTO considered an alternative approach that involved not allowing consolidation of proceedings in this circumstance, but this option would hinder proper and efficient management of multiple related proceedings.

Response time periods in new ex parte proceedings: The proposed rule sets a deadline of two months for responding to a non-final or final Office action issued in a reexamination and/or expungement proceeding. The USPTO considered a number of alternatives to this response deadline framework. These alternatives included a two-month response period with an optional one-month extension; a three-month response period for the initial Office action and a three-month period for the final Office action; and different response periods for the initial Office action and the final Office action.

In weighing these options, the Office considered the fact that, once an Office action has been received by a registrant, the registrant will need time to review the content of the Office action, hire counsel if needed, and conduct fact-finding and evidence gathering in order to provide a response. The Office also considered the fact that a traditional six-month response period maximizes the time for the registrant to engage in these necessary activities but could potentially result in prolonged review, which is contrary to the objective to provide a faster and more efficient alternative to addressing claims of lack of proper use.

The selected two-month response period balances this objective with the registrant's need for time to engage in the necessary activities to provide a response to the Office action. Furthermore, the USPTO plans to provide a courtesy notification to the registrant that a petition has been filed so as to facilitate early notice of a possible proceeding.

Flexible response periods: The TMA authorizes the USPTO to establish flexible response periods to respond to Office actions. The proposed rule sets a period of three months for responding to an Office action in applications under sections 1 and/or 44 of the Act, but provides an option for applicants to request a single three-month extension of this three-month deadline, for a total response time of up to six months. The same response deadline framework is also proposed for post-registration Office actions issued in connection with the examination of registration maintenance documents. This proposed alternative was selected because it is supported by the USPTO's data analytics regarding average response times, is the option with the least burden and costs for filers, and avoids uncertainty in filing deadlines by providing consistent deadlines for responses.

The USPTO considered three alternatives to the proposals to implement flexible response periods. The first alternative was to maintain six-month response periods for any Office action that contains a substantive refusal and provide a shorter response period for any Office action that contained only formal requirements, because responses for these typically require less time. This alternative may require some discretion by examining attorneys to decide which response period applies if, for example, it is not clear whether the Office action contains a substantive refusal. Additionally, public feedback indicated that this approach results in the length of the response period being unknown until the Office action is received and would require the monitoring of multiple possible deadlines.

A second alternative considered was to offer shorter response periods for all Office actions, but to offer an initial response period of two months, with one-month extensions with a corresponding fee, to reach the full six months. The fee for extension would be progressively higher, depending on when the response and extension request were filed. For example, responses filed in the third, fourth, fifth, or sixth month would, respectively, have an extension fee of $50, $75, $125, and $150. An application would be abandoned when a response is not received within the two-month period

or such other extended deadline as requested and paid for by applicant, not to exceed six months from the Office action issue date. This alternative puts a greater burden on filers to track multiple deadlines and could also increase costs to filers to file and pay for multiple extensions to reach the full six-month period for response.

Finally, the USPTO considered a two-phase examination system. Under this approach, a USPTO examiner could review application formalities and issue a formalities Office action with a shortened response period of two months, extendable in two-month increments to a full six months upon request and payment of a fee. Once the formalities were addressed, the application could enter the second phase of the examination, whereby an examiner would issue an Office action containing any substantive refusals that identifies a response deadline of three months, extendable for another three months to a total of six months, upon request and payment of a fee.

Suspension of proceedings: The USPTO proposes amendments to the rules concerning suspension of proceedings to align them with current practice and to clarify that the new ex parte expungement and reexamination proceedings are among the types of proceedings for which suspension of action by the Office or the TTAB is authorized.

The alternative was to take no action in amending these rules, but that option would result in a continued misalignment of the rules and USPTO practice, and could hinder proper and efficient management of multiple related proceedings.

Attorney recognition: The proposed rule provides that, for the purposes of an application or registration, recognition of a qualified attorney as the applicant's or registrant's representative will continue until the owner revokes the appointment or the attorney withdraws from representation. This would allow recognition to continue when an application abandons, post-registration documents are filed, or a registration expires or is cancelled. Accordingly, owners and attorneys would be required to proactively file documents to, respectively, revoke an appointment or withdraw from representation when the representation has ended, rather than simply having recognition by the USPTO end automatically when certain events, including abandonment or registration, occur. In addition, the proposed rule provides that, when a practitioner has been mistakenly, falsely, or fraudulently designated as a representative for an applicant, registrant, or party to a proceeding without the practitioner's prior authorization or knowledge, recognition of that practitioner shall be ineffective. It also clarifies practitioners' obligations when withdrawing from representation and proposes to delete a provision relating to conflicts of interest that has been superseded by the USPTO's Rules of Professional Conduct.

The USPTO considered not updating the current rules on attorney recognition as an alternative to the proposed rule. However, leaving the regulations as they are currently written would result in continued inconsistency between the rule and current USPTO practice, would complicate the implementation a role-based access control system that is intended to improve USPTO database integrity, and would potentially hinder the USPTO's ability to combat misleading solicitations sent to trademark applicants and registrants as well as other improper activities.

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

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the USPTO has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing an NPRM, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

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

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

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

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

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

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

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

L. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local,

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

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

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

O. Paperwork Reduction Act of 1995: In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), some of the paperwork and other information collection burdens discussed in this proposed rulemaking have already been approved under Office of Management and Budget (OMB) Control Numbers 0651–0040 (Trademark Trial and Appeal Board (TTAB) Actions), 0651–0050 (Response to Office Action and Voluntary Amendment Forms), and 0651–0055 (Post Registration (Trademark Processing)).

In addition, this proposed rulemaking adds new items and fees regarding petitions requesting institution of expungement and reexamination proceedings, responses to Office actions issued in connection with expungement and reexamination, and requests for an extension of time to respond to an Office action. The new information collection requirements included in this proposed rulemaking have been submitted as a new information collection request (ICR) for approval to OMB.

Please send comments on this new ICR to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for USPTO, Washington, DC 20503. Please state that your comments refer to Docket No. PTO–T–2021–0008. Please send a copy of your comments to USPTO using one of the methods described under **ADDRESSES** at the beginning of this document.

Title of information collection: Expungement and Reexamination Proceedings.

Affected public: Private sector, individuals, and households.

Estimated annual number of respondents: 10,561.

Estimated annual number of responses: 11,116.

Estimated total annual burden hours: 10,865.

Estimated total annual respondent hourly cost burden: $4,346,000.

TABLE 1—PROPOSED BURDEN HOURS FOR PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Estimated annual responses (year) (a)	Estimated time for response (hour) (b)	Estimated annual burden (hour/year) (a) × (b) = (c)	Rate [1] ($/hour) (d)	Estimated annual burden (c) × (d) = (e)
1	Petition for Ex Parte Expungement.	1,843	1,940	1.5	2,910	$400	$1,164,000
2	Response to Ex Parte Expungement Office Action.	1,659	1,746	1	1,746	400	698,400
3	Response to Director-Initiated Expungement Office Action.	185	194	1	194	400	77,600
4	Petition for Ex Parte Reexamination.	1,229	1,294	1.5	1941	400	776,400
5	Response to Ex Parte Reexamination Office Action.	1,106	1,164	1	1,164	400	465,600
6	Response to Ex Parte Director-Initiated Reexamination Office Action.	123	130	1	130	400	52,000
7	Request for Extension of Time for Filing a Response to Office Action.	2,304	2,425	0.25	606	400	242,400
Totals		8,449	8,893		8,691		3,476,400

[1] 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA), *https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey.* The USPTO uses the mean rate for attorneys in private firms, which is $400 per hour.

TABLE 2—PROPOSED BURDEN HOURS FOR INDIVIDUAL AND HOUSEHOLD RESPONDENTS

Item No.	Item	Estimated annual respondents	Estimated annual responses (year) (a)	Estimated time for response (hour) (b)	Estimated annual burden (hour/year) (a) × (b) = (c)	Rate [2] ($/hour) (d)	Estimated annual burden (c) × (d) = (e)
1	Petition for Ex Parte Expungement.	461	485	1.5	728	$400	$291,200
2	Response to Ex Parte Expungement Office Action.	415	437	1	437	400	174,800
3	Response to Director-Initiated Expungement Office Action.	46	49	1	49	400	19,600
4	Petition for Ex Parte Reexamination.	307	323	1.5	485	400	194,000
5	Response to Ex Parte Reexamination Office Action.	276	291	1	291	400	116,400
6	Response to Ex Parte Director-Initiated Reexamination Office Action.	31	32	1	32	400	12,800
7	Request for Extension of Time for Filing a Response to Office Action.	576	606	0.25	152	400	60,800
Totals		2,112	2,223		2,174		869,600

[2] 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA), *https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey.* The USPTO uses the mean rate for attorneys in private firms, which is $400 per hour.

Estimated total annual respondent non-hourly cost burden: $2,810,175.

This information collection has non-hourly cost burden in fees paid by the respondents. There are filing fees associated with this information collection for a total of $2,810,175 per year as outlined in Table 3 below. The filing fees for petitions for expungement or reexamination are based on the number of classes of goods and/or services in the petition; therefore, the total filing fees for these submissions can vary depending on the number of classes. The filing fees shown here are the minimum fees associated with this information collection.

TABLE 3—FILING FEES/NON-HOURLY COST BURDEN TO RESPONDENTS

Item No.	Item	Estimated annual responses (a)	Filing fees (b)	Total cost (a) × (b) = (c)
1	Petition for Ex Parte Expungement	2,425	$600	$1,455,000
4	Petition for Ex Parte Reexamination	1,617	600	970,200
7	Request for Extension of Time for Filing a Response to Office Action (paper)	61	225	13,725
8	Request for Extension of Time for Filing a Response to Office Action (TEAS)	2,970	125	371,250
Totals		7,073		2,810,175

The USPTO is soliciting public comments on this new ICR to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of IT, *e.g.,* permitting electronic submission of responses.

Please submit comments on this new collection of information at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review'' or by using the search function and entering the title of the collection. Please send a copy of your comments to the USPTO using one of the methods described under **ADDRESSES** at the beginning of this document.

All comments submitted in response to this proposed rulemaking are a matter of public record. The USPTO will respond to any ICR-related comments in

the final rulemaking. Copies of this information collection may be viewed at the Federal eRulemaking Portal (*www.regulations.gov*) or can be requested from the USPTO via email at *Information.Collection@uspto.gov.*

Notwithstanding any other provision of 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 Paperwork Reduction Act unless that collection of information has a valid OMB control number.

P. E-Government Act Compliance: The USPTO is committed to compliance 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. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Kimberly Hardy, USPTO Information Collection Officer, via email at *Information.Collection@uspto.gov* or via telephone at 571–270–0968.

List of Subjects

37 CFR Part 2

Administrative practice and procedure, Courts, Lawyers, Trademarks.

37 CFR Part 7

Administrative practice and procedure, Trademarks.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the USPTO proposes to amend parts 2 and 7 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for 37 CFR part 2 is revised to read as follows:

Authority: 15 U.S.C. 1113, 1123; 35 U.S.C. 2; Section 10, Pub. L. 112–29; Pub. L. 116–260, 134 Stat. 1182, unless otherwise noted. Sec. 2.99 also issued under secs. 16, 17, 60 Stat. 434; 15 U.S.C. 1066, 1067.

■ 2. Amend § 2.6 by adding paragraphs (a)(26) and (27) to read as follows:

§ 2.6 Trademark fees.

(a) * * *

(26) *Petition for expungement and/or reexamination.* For filing a petition for expungement and/or reexamination under § 2.91, per class—$600.00

(27) *Extension of time for filing a response to an Office action under §§ 2.62(a)(2), 2.141(a), 2.163(c), 2.165(c), 2.184(b)(2) or 2.186(c).*

(i) For filing a request for extension of time for filing a response to an Office action under §§ 2.62(a)(2), 2.141(a), 2.163(c), 2.165(c), 2.184(b)(2) or 2.186(c) on paper—$225.00.

(ii) For filing a request for extension of time for filing a response to an Office action under §§ 2.62(a)(2), 2.141(a), 2.163(c), 2.165(c), 2.184(b)(2) or 2.186(c) via TEAS—$125.00.

■ 3. Amend § 2.11 by revising paragraphs (d) and (f) to read as follows:

§ 2.11 Requirement for representation.

* * * * *

(d) Failure to respond to requirements issued pursuant to paragraphs (a) through (c) of this section is governed by §§ 2.65, 2.93, 2.163, and 7.39, as appropriate.

* * * * *

(f) Notwithstanding §§ 2.63(b)(2)(ii) and 2.93(c)(1), if an Office action maintains only requirements under paragraphs (a), (b), and/or (c) of this section, or only requirements under paragraphs (a), (b), and/or (c) of this section and the requirement for a processing fee under § 2.22(c), the requirements may be reviewed only by filing a petition to the Director under § 2.146.

■ 4. Amend § 2.17 by:

■ a. Adding a new paragraph (b)(4), and

■ b. Revising paragraph (g).

The addition and revision read as follows:

§ 2.17 Recognition for representation.

* * * * *

(b) * * *

(4) *False, fraudulent, or mistaken designation.* Regardless of paragraph (b)(1) of this section, where a practitioner has been mistakenly, falsely, or fraudulently designated as a representative for an applicant, registrant, or party to a proceeding without the practitioner's prior authorization or knowledge, recognition of that practitioner shall be ineffective.

* * * * *

(g) *Duration of recognition.* The USPTO considers recognition as to an application or registration to continue until the applicant, registrant, or party to a proceeding revokes authority pursuant to § 2.19(a)(1) or the representative withdraws from representation under § 2.19(b).

■ 5. Amend § 2.18 by revising paragraphs (a)(1) and (2) to read as follows:

§ 2.18 Correspondence, with whom held.

(a) * * *

(1) If an attorney is not recognized as a representative pursuant to § 2.17(b)(1), the Office will send correspondence to the applicant, registrant, or party to the proceeding.

(2) If an attorney is recognized as a representative pursuant to § 2.17(b)(1), the Office will correspond only with that attorney, except as set forth below. A request to change the correspondence address does not revoke a power of attorney. The Office will not correspond with another attorney from a different firm and, except for service of a cancellation petition and notices of institution of expungement or reexamination proceedings, will not correspond directly with the applicant, registrant, or a party to a proceeding, unless:

(i) Recognition of the attorney has ended pursuant to § 2.19; or

(ii) The attorney has been suspended or excluded from practicing in trademark matters before the USPTO.

* * * * *

■ 6. Amend § 2.19 by:

■ a. Revising paragraph (b), and

■ b. Adding paragraphs (c) and (d).

The revision and addition read as follows:

§ 2.19 Revocation or withdrawal of attorney.

* * * * *

(b) *Withdrawal of attorney required.* If the requirements of § 11.116(a) of this chapter are met, a practitioner authorized to represent an applicant, registrant, or party to a proceeding in a trademark case must withdraw from representation before the USPTO by filing a request to withdraw or, when applicable, a motion with the Trademark Trial and Appeal Board as soon as practicable, but no longer than 30 days after the condition necessitating withdrawal unless the applicant, registrant, or party to a proceeding has already revoked the practitioner's authority pursuant to paragraph (a) of this section. The request or motion to withdraw must include the following:

(1) The application serial number, registration number, or proceeding number;

(2) A statement of the reason(s) why withdrawal is required under the rules; and

(3) A statement that the practitioner shall take steps reasonably practicable under the circumstances to protect the client's interests.

(c) *Withdrawal of attorney permitted.* A practitioner may withdraw from representation before the USPTO if the requirements of § 11.116(b) of this chapter are met, upon application to and approval by the Director or, when applicable, upon motion granted by the Trademark Trial and Appeal Board. The

practitioner must file the request to withdraw as soon as practicable, but no longer than 30 days after the practitioner notifies the client of the termination of representation unless the applicant, registrant, or party to a proceeding has already revoked the practitioner's authority pursuant to paragraph (a) of this section. The request to withdraw must include the following:

(1) The application serial number, registration number, or proceeding number;

(2) A statement of the reason(s) for the request to withdraw; and

(3) Either:

(i) A statement that the practitioner has given notice to the client that the practitioner is withdrawing from employment and will be filing the necessary documents with the Office; that the client was given notice of the withdrawal at least two months before the expiration of any applicable deadline; that the practitioner has delivered to the client all documents and property in the practitioner's file to which the client is entitled; and that the practitioner has notified the client of any pending or upcoming submission deadlines; or

(ii) If more than one qualified practitioner is of record, a statement that representation by another currently recognized attorney is ongoing.

(d) *Recognition ineffective.* If recognition is not effective under § 2.17(b)(4), then revocation under paragraph (a) of this section or withdrawal under paragraph (b) or (c) of this section is not required.

■ 7. Amend § 2.23 by adding paragraph (d)(3), to read as follows:

§ 2.23 Requirement to correspond electronically with the Office and duty to monitor status.

* * * * *

(d) * * *

(3) After notice of the institution of an expungement or reexamination proceeding under § 2.92, at least every two months until the registrant receives a notice of termination under § 2.94, or, if no notice of institution was received, at least every six months following the issue date of the registration.

§ 2.61 [Amended]

■ 8. Amend § 2.61 by removing paragraph (c).

■ 9. Amend § 2.62 by revising paragraphs (a) and (c) to read as follows:

§ 2.62 Procedure for submitting response.

(a) *Deadline.* Each Office action shall set forth the deadline for response.

(1) *Response periods.* Unless the applicant is notified otherwise in an Office action, the response periods for an Office action are as follows:

(i) Three months from the issue date, for an Office action in an application under section 1 and/or section 44 of the Act; and

(ii) Six months from the issue date, for an Office action in an application under section 66(a) of the Act.

(2) *Extensions of time.* Unless the applicant is notified otherwise in an Office action, the time for response designated in paragraph (a)(1)(i) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 2.6(a)(27). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

* * * * *

(c) *Form.* Responses and requests for extensions of time to respond must be submitted through TEAS pursuant to § 2.23. Responses and requests for extensions of time to respond sent via email or facsimile will not be accorded a date of receipt.

■ 10. Amend § 2.63 by revising paragraphs (b) introductory text, (b)(1) and (2), and (c) and (d) to read as follows:

§ 2.63 Action after response.

* * * * *

(b) *Final refusal or requirement.* Upon review of a response, the examining attorney may state that any refusal to register or requirement is final.

(1) If the examining attorney issues a final action that maintains any substantive refusal to register, the applicant may respond by timely filing:

(i) A request for reconsideration under paragraph (b)(3) of this section that seeks to overcome any substantive refusal to register, and comply with any outstanding requirement, maintained in the final action;

(ii) An appeal to the Trademark Trial and Appeal Board under §§ 2.141 and 2.142; or

(iii) A request for extension of time to respond or appeal under § 2.62(a)(2).

(2) If the examining attorney issues a final action that contains no substantive refusals to register, but maintains any requirement, the applicant may respond by timely filing:

(i) A request for reconsideration under paragraph (b)(3) of this section that seeks to comply with any outstanding requirement maintained in the final action;

(ii) An appeal of any requirement to the Trademark Trial and Appeal Board under §§ 2.141 and 2.142;

(iii) A petition to the Director under § 2.146 to review any requirement, if the subject matter of the requirement is procedural, and therefore appropriate for petition; or

(iv) A request for extension of time to respond or appeal under § 2.62(a)(2).

* * * * *

(c) *Denial of petition.* A requirement that is the subject of a petition decided by the Director may not subsequently be the subject of an appeal to the Trademark Trial and Appeal Board. If a petition to the Director under § 2.146 is denied, the applicant will have the later of:

(1) The time remaining in the response period set forth in the Office action that repeated the requirement or made it final;

(2) The time remaining after the filing of a timely request for extension of time to respond or appeal under § 2.62(a)(2); or

(3) Thirty days from the date of the decision on the petition to comply with the requirement.

(d) *Amendment to allege use.* If an applicant in an application under section 1(b) of the Act files an amendment to allege use under § 2.76 during the response period after issuance of a final action, the examining attorney will examine the amendment. The filing of such an amendment does not stay or extend the time for filing an appeal or petition.

■ 11. Amend § 2.65 by revising paragraph (a) to read as follows:

§ 2.65 Abandonment.

(a) An application will be abandoned if an applicant fails to respond to an Office action, or to respond completely, within the relevant time period for response under § 2.62(a), including any granted extension of time to respond under § 2.62(a)(2). A timely petition to the Director pursuant to §§ 2.63(a) and (b) and 2.146 or notice of appeal to the Trademark Trial and Appeal Board pursuant to § 2.142, if appropriate, is a response that avoids abandonment (see § 2.63(b)(4)).

(1) If all refusals and/or requirements are expressly limited to certain goods and/or services, the application will be abandoned only as to those goods and/or services.

(2) When a timely response by the applicant is a bona fide attempt to advance the examination of the application and is a substantially complete response to the examining attorney's action, but consideration of some matter or compliance with a requirement has been omitted, the examining attorney may grant the applicant 30 days, or to the end of the

response period set forth in the action to which the substantially complete response was submitted, whichever is longer, to explain and supply the omission before the examining attorney considers the question of abandonment.

* * * * *

■ 12. Amend § 2.66 by revising paragraph (b) to read as follows:

§ 2.66 Revival of applications abandoned in full or in part due to unintentional delay.

* * * * *

(b) *Petition to Revive Application Abandoned in Full or in Part for Failure to Respond to an Office Action.* A petition to revive an application abandoned in full or in part because the applicant did not timely respond to an Office action must include:

(1) The petition fee required by § 2.6(a)(15);

(2) A statement, signed by someone with firsthand knowledge of the facts, that the delay in filing the response on or before the due date was unintentional; and

(3) A response to the Office action, signed pursuant to § 2.193(e)(2), or a statement that the applicant did not receive the Office action or the notification that an Office action issued. If the applicant asserts that the unintentional delay is based on non-receipt of an Office action or notification, the applicant may not assert non-receipt of the same Office action or notification in a subsequent petition.

(4) If the Office action was subject to a three-month response period under § 2.62(a)(1), and the applicant does not assert non-receipt of the Office action or notification, the petition must also include the fee under § 2.6(a)(27) for a request for extension of time to respond under § 2.62(a)(2).

(5) If the abandonment was after a final Office action, the response is treated as a request for reconsideration under § 2.63(b)(3), and the applicant must also file:

(i) A notice of appeal to the Trademark Trial and Appeal Board under § 2.141 or a petition to the Director under § 2.146, if permitted by § 2.63(b)(2)(iii); or

(ii) A statement that no appeal or petition is being filed from any final refusal or requirement.

* * * * *

■ 13. Revise § 2.67 to read as follows:

§ 2.67 Suspension of action by the Patent and Trademark Office.

Action by the Office may be suspended for a reasonable time for good and sufficient cause. The fact that a proceeding is pending before the Office or a court that is relevant to the issue of initial or continued registrability of a mark and that proceeding has not been finally determined, or the fact that the basis for registration is, under the provisions of section 44(e) of the Act, registration of the mark in a foreign country and the foreign application is still pending, will be considered prima facie good and sufficient cause. An Office or court proceeding is not considered finally determined until an order or ruling that ends the proceeding or litigation has been rendered and noticed, and the time for any appeal or other further review has expired with no further review sought. An applicant's request for a suspension of action under this section filed within the response period set forth in § 2.62(a) may be considered responsive to the previous Office action. The Office may require the applicant, registrant, or party to a proceeding to provide status updates and information relevant to the ground(s) for suspension, upon request.

■ 14. Revise the undesignated center heading that precedes § 2.91 ''CONCURRENT USE PROCEEDINGS'' to read as follows:

Ex Parte Expungement and Reexamination

■ 15. Add § 2.91 to read as follows:

§ 2.91 Petition for expungement or reexamination.

(a) *Petition basis.* Any person may file a petition requesting institution of an ex parte proceeding to cancel a registration of a mark, in whole or in part, on one of the following bases:

(1) Expungement, if the mark is registered under sections 1, 44, or 66 of the Act and has never been used in commerce on or in connection with some or all of the goods and/or services recited in the registration; or

(2) Reexamination, if the mark is registered under section 1 of the Act and was not in use in commerce on or in connection with some or all of the goods and/or services recited in the registration on or before the relevant date, which for any particular goods and/or services, is determined as follows:

(i) In an application for registration of a mark with an initial filing basis of section 1(a) of the Act for the goods and/or services listed in the petition, and not amended at any point to be filed pursuant to section 1(b) of the Act, the relevant date is the filing date of the application; or

(ii) In an application for registration of a mark with an initial filing basis or amended basis of section 1(b) of the Act for the goods and/or services listed in the petition, the relevant date is the later of the filing date of an amendment to allege use identifying the goods and/or services listed in the petition, pursuant to section 1(c) of the Act, or the expiration of the deadline for filing a statement of use for the goods and/or services listed in the petition, pursuant to section 1(d), including all approved extensions thereof.

(b) *Time for filing.* The petition must be filed while the registration is in force and:

(1) Where the petition requests institution of an expungement proceeding under paragraph (a)(1) of this section, at any time following the expiration of 3 years after the date of registration and, for petitions made after December 27, 2023, before the expiration of 10 years following the date of registration; or

(2) Where the petition requests institution of a reexamination proceeding under paragraph (a)(2) of this section, at any time not later than 5 years after the date of registration.

(c) *Requirements for complete submission.* Only complete petitions under this section will be considered by the Director under § 2.92, and, once complete, may not be amended by the petitioner. A complete petition must be made in writing, timely filed through TEAS, and include the following:

(1) The fee required by § 2.6(a)(26);

(2) The U.S. trademark registration number of the registration subject to the petition;

(3) The basis for petition under paragraph (a) of this section;

(4) The name, domicile address, and email address of the petitioner;

(5) If the domicile of the petitioner is not located within the United States or its territories, a designation of an attorney, as defined in § 11.1 of this chapter, who is qualified to practice under § 11.14 of this chapter;

(6) If the petitioner is, or must be, represented by an attorney, as defined in § 11.1 of this chapter, who is qualified to practice under § 11.14 of this chapter, the attorney's name, postal address, email address, and bar information under § 2.17(b)(3);

(7) Identification of each good and/or service recited in the registration for which the petitioner requests that the proceeding be instituted on the basis identified in the petition;

(8) A verified statement that sets forth in numbered paragraphs:

(i) The elements of the reasonable investigation of nonuse conducted, as defined under paragraph (d) of this section, where for each source of information relied upon, the statement

includes a description of how and when the searches were conducted and what the searches disclosed; and

(ii) A concise factual statement of the relevant basis for the petition, including any additional facts that support the allegation of nonuse of the mark in commerce on or in connection with the goods and services as specified in paragraph (a) of this section;

(9) A clear and legible copy of all documentary evidence supporting a prima facie case of nonuse of the mark in commerce and an itemized index of such evidence. Evidence that supports a prima facie case of nonuse may also include, but is not limited to:

(i) Verified statements;

(ii) Excerpts from USPTO electronic records in applications or registrations;

(iii) Screenshots from relevant web pages, including the URL and access or print date;

(iv) Excerpts from press releases, news articles, journals, magazines, or other publications, identifying the publication name and date of publication; and

(v) Evidence suggesting that the verification accompanying a relevant allegation of use in the registration was improperly signed.

(d) *Reasonable investigation of nonuse.* A petitioner must make a bona fide attempt to determine if the registered mark was not in use in commerce or never in use in commerce on or in connection with the goods and/or services as specified in paragraph (a) of this section by conducting a reasonable investigation.

(1) A reasonable investigation is an appropriately comprehensive search, which may vary depending on the circumstances, but is calculated to return information about the underlying inquiry from reasonably accessible sources where evidence concerning use of the mark during the relevant time period on or in connection with the relevant goods and/or services would normally be found.

(2) Sources for a reasonable investigation may include, but are not limited to:

(i) State and Federal trademark records;

(ii) Internet websites and other media likely to or believed to be owned or controlled by the registrant;

(iii) Internet websites, other online media, and publications where the relevant goods and/or services likely would be advertised or offered for sale;

(iv) Print sources and web pages likely to contain reviews or discussion of the relevant goods and/or services;

(v) Records of filings made with or of actions taken by any State or Federal business registration or regulatory agency;

(vi) The registrant's marketplace activities, including, for example, any attempts to contact the registrant or purchase the relevant goods and/or services;

(vii) Records of litigation or administrative proceedings reasonably likely to contain evidence bearing on the registrant's use or nonuse of the registered mark; and

(viii) Any other reasonably accessible source with information establishing nonuse of the mark as specified in paragraph (a) of this section.

(3) A petitioner need not check all possible appropriate sources for its investigation to be considered reasonable.

(e) *Director's authority.* The authority to act on petitions made under this section is reserved to the Director, and may be delegated.

(f) *Oral hearings.* An oral hearing will not be held on a petition except when considered necessary by the Director.

(g) *No stay.* The mere filing of a petition for expungement or reexamination by itself will not act as a stay in any appeal or inter partes proceeding that is pending before the Trademark Trial and Appeal Board, nor will it stay the period for replying to an Office action in any pending application or registration.

■ 16. Add § 2.92 to read as follows:

§ 2.92 Institution of *ex parte* expungement and reexamination proceedings.

Notwithstanding section 7(b) of the Act, the Director may, upon a determination that information and evidence supports a prima facie case, institute a proceeding for expungement or reexamination of a registration of a mark, either upon petition or upon the Director's initiative. Information that supports a prima facie case of nonuse with the goods and/or services at issue shall be based upon all information and evidence available to the Office. The electronic record of the registration for which a proceeding has been instituted forms part of the record of the proceeding without any action by the Office, a petitioner, or a registrant.

(a) *Institution upon petition.* For each good and/or service identified in a complete petition under § 2.91, the Director will determine if the petition sets forth a prima facie case of nonuse to support the petition basis and, if so, will institute an ex parte expungement or reexamination proceeding.

(b) *Institution upon the Director's initiative.* The Director may institute an ex parte expungement or reexamination proceeding on the Director's own initiative, within the time periods set forth in § 2.91(b), and for the reasons set forth in § 2.91(a), based on information that supports a prima facie case for expungement or reexamination of a registration for some or all of the goods or services identified in the registration.

(c) *Director's authority.* (1) Any determination by the Director whether to institute an expungement or reexamination proceeding shall be final and non-reviewable.

(2) The Director may institute an expungement and/or reexamination proceeding for fewer than all of the goods and/or services identified in a petition under § 2.91. The identification of particular goods and/or services in a petition does not limit the Director from instituting a proceeding that includes additional goods and/or services identified in the subject registration on the Director's own initiative, under paragraph (b) of this section.

(d) *Estoppel.* (1) Upon termination of an expungement proceeding under § 2.93(c)(3), including after any appeal, where it has been determined that the registered mark was used in commerce on or in connection with any of the goods and/or services at issue in the proceedings prior to the date a petition to expunge was filed under § 2.91 or the Director-initiated proceedings under § 2.92, no further expungement proceedings may be instituted as to those particular goods and/or services.

(2) Upon termination of a reexamination proceeding under § 2.93(c)(3), including any appeal, where it is has been determined that the registered mark was used in commerce on or in connection with any of the goods and/or services at issue, on or before the relevant date established in the proceedings, no further expungement or reexamination proceedings may be instituted as to those particular goods and/or services.

(3) With respect to a particular registration, once an expungement proceeding has been instituted and is pending, no later expungement proceeding may be instituted with respect to the same goods and/or services at issue in the pending proceeding.

(4) With respect to a particular registration, while a reexamination proceeding is pending, no later expungement or reexamination proceeding may be instituted with respect to the same goods and/or services at issue in the pending proceeding.

(e) *Consolidated proceedings.*

(1) The Director may consolidate expungement and reexamination proceedings involving the same

registration. Consolidated proceedings will be considered related parallel proceedings.

(2) If two or more petitions under § 2.91 are directed to the same registration and are pending concurrently, or the Director wishes to institute an ex parte expungement or reexamination proceeding on the Director's own initiative under paragraph (b) of this section concerning a registration for which one or more petitions under § 2.91 are pending, the Director may elect to institute a single proceeding.

(3) Unless barred under paragraph (d) of this section, if any expungement or reexamination proceeding is instituted while a prior expungement or reexamination proceeding directed to the same registration is pending, the Director may consolidate the proceedings.

(f) *Notice of Director's determination whether to institute proceedings.* (1) In a determination based on a petition under § 2.91, if the Director determines that no prima facie case of nonuse has been made and thus no proceeding will be instituted, notice of this determination will be provided to the registrant and petitioner, and will include the means to access the petition and supporting documents and evidence.

(2) If the Director determines that a proceeding should be instituted based on a prima facie case of nonuse of a registered mark as to any goods and/or services recited in the registration, or consolidates proceedings under paragraph (e) of this section, the Director's determination and notice of the institution of the proceeding will be set forth in an Office action under § 2.93(a). If a proceeding is instituted based in whole or in part on a petition under § 2.91, the Office action will include the means to access any petition and the supporting documents and evidence supporting a prima facie case that formed the basis for the Director's determination. Notice of the Director's determination will also be provided to the petitioner.

(g) *Other mark types.* (1) Registrations subject to expungement and reexamination proceedings include collective trademarks, collective service marks, and certification marks.

(2) The use that is the subject of the inquiry in expungement and reexamination proceedings for these mark types is defined in § 2.2(k)(2) for collective trademarks and collective service marks, and § 2.2(k)(4) for certification marks.

■ 17. Add § 2.93 to read as follows:

§ 2.93 Expungement and reexamination procedures.

(a) *Office action.* An Office action issued to a registrant pursuant to § 2.92 (f)(2) will require the registrant to provide such evidence of use, information, exhibits, affidavits, or declarations as may be reasonably necessary to rebut the prima facie case of nonuse by establishing that the required use in commerce has been made on or in connection with the goods and/or services at issue as of the date relevant to the proceeding. The Office action may also include requirements under §§ 2.11, 2.23, and 2.189, as appropriate.

(b) *Response*—(1) *Deadline.* The registrant's response to an Office action must be received by the Office within two months from the issue date. If the registrant fails to timely respond to a non-final Office action, the proceeding will terminate, and the registration will be cancelled as to the relevant goods and/or services.

(2) *Signature.* The response must be signed by the registrant, someone with legal authority to bind the registrant (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(3) *Form.* Responses must be submitted through TEAS. Responses sent via email or facsimile will not be accorded a date of receipt.

(4) *Response in an expungement proceeding.* In an expungement proceeding, an acceptable response consists of one or more of the following:

(i) Evidence of use, in accordance with paragraph (b)(6) of this section, establishing that use of the mark in commerce occurred on or in connection with the goods and/or services at issue either before the filing date of the relevant granted petition to expunge under § 2.91(a)(1) or before the date the proceeding was instituted by the Director under § 2.92(b), as appropriate;

(ii) Verified statements and supporting evidence to establish that any nonuse as to particular goods and/or services with a sole basis under section 44(e) or section 66(a) of the Act is due to special circumstances that excuse such nonuse; and/or

(iii) Deletion of some or all of the goods and/or services at issue in the proceeding, if appropriate, subject to the provisions of paragraph (d) of this section.

(5) *Response in a reexamination proceeding.* In a reexamination proceeding, an acceptable response consists of one or more of the following:

(i) Evidence of use, in accordance with paragraph (b)(6) of this section, establishing that use of the mark in commerce occurred on or in connection with each particular good and/or service at issue, on or before the relevant date set forth in § 2.91(a)(2); and/or

(ii) Deletion of some or all of the goods and/or services at issue in the proceeding, if appropriate, subject to the provisions of paragraph (d) of this section.

(6) *Evidence of use.* Evidence of use of the mark in commerce on or in connection with any particular good and/or service must be consistent with the definition of ''use in commerce'' set forth in section 45 of the Act and is not limited in form to that of specimens under § 2.56. Any evidence of use must be accompanied by a verified statement setting forth in numbered paragraphs factual information about the use of the mark in commerce and the supporting evidence, including how the evidence demonstrates use of the mark in commerce as of any relevant date for the goods and/or services at issue. Evidence must be labeled, and an itemized index of the evidence must be provided such that the particular goods and/or services supported by each item submitted as evidence of use is clear.

(c) *Action after response.* After response by the registrant, the Office will review the registrant's evidence of use or showing of applicable excusable nonuse, and/or arguments, and determine compliance with any requirement.

(1) *Final Office action.* If the registrant's timely response fails to rebut the prima facie case of nonuse or fully comply with all outstanding requirements, a final Office action will issue that addresses the evidence, includes the examiner's decision, and maintains any outstanding requirement. After issuance of a final Office action, the registrant may respond by timely filing:

(i) A request for reconsideration of the final Office action that seeks to further address the issue of use of the mark in commerce and/or comply with any outstanding requirement maintained in the final action; or

(ii) An appeal to the Trademark Trial and Appeal Board under § 2.143.

(2) *Time for filing a request for reconsideration or petition to the Director.* (i) A request for reconsideration must be filed prior to the expiration of time provided for an appeal in § 2.143. Filing a request for reconsideration does not stay or extend the time for filing an appeal or a petition under paragraph (c)(2)(iv) of this section.

(ii) Prior to the expiration of time for filing an appeal to the Trademark Trial and Appeal Board under § 2.143, a registrant may file a petition to the Director under § 2.146 for relief from any outstanding requirement under §§ 2.11, 2.23, and 2.189 made final. If the petition is denied, the registrant will have 2 months from the date of issuance of the final action that contained the final requirement, or 30 days from the date of the decision on the petition, whichever date is later, to comply with the requirement. A requirement that is the subject of a petition decided by the Director may not subsequently be the subject of an appeal to the Trademark Trial and Appeal Board.

(3) *Termination of proceeding.* (i) If, upon review of any timely response, the Office finds that the registrant has rebutted the prima facie case of nonuse and complied with all outstanding requirements, the proceeding will terminate and a notice of termination shall be issued under § 2.94.

(ii) If, after issuance of the final action, the registrant fails to timely comply with any outstanding requirement, or the Office finds that the registrant has failed to rebut the prima facie case of nonuse of the mark on or in connection with any of the goods and/or services at issue in the proceeding, the proceeding will terminate, and a notice of termination shall be issued under § 2.94 after the time for appeal has expired or any appeal proceeding has terminated, pursuant to §§ 2.143–2.145.

(d) *Deletion of goods and/or services.* The registrant may respond to an Office action under this section by requesting that some or all of the goods and/or services at issue in the proceeding be deleted from the registration. No other amendment to the identification of goods or services in a registration will be permitted in a response.

(1) An acceptable deletion requested in a response under this section shall be immediate in effect, and reinsertion of goods and/or services or further amendments that would add to or expand the scope of the goods and/or services shall not be permitted. Deletion of goods and/or services in an expungement or reexamination proceeding after the submission and prior to the acceptance of an affidavit or declaration under section 8 or 71 of the Act will result in a fee under § 2.161 (c) or § 7.37(c).

(2) A submission other than one made under this section, including a request to surrender the subject registration for cancellation under § 2.172 or a request to amend the registration under § 2.173, filed after the issuance of an Office action under this section, does not constitute a sufficient response to an Office action under this section. The registrant must notify the Office of such submission in a timely response.

(3) Deletion of goods and/or services at issue in a pending proceeding in a response, a surrender for cancellation under § 2.172, an amendment of the registration under § 2.173, or any other accepted submission, shall render the proceeding moot as to those goods and/or services, and no further determination will be made regarding the registrant's use of the mark in commerce as to those goods and/or services.

■ 18. Add § 2.94 to read as follows:

§ 2.94 Action after expungement or reexamination.

Upon termination of an expungement or reexamination proceeding, the Office shall issue a notice of termination that memorializes the final disposition of the proceeding as to each of the goods and/or services at issue in the proceeding. Where appropriate, the registration will be cancelled, in whole or in part, based on the final disposition of the proceeding.

■ 19. Add an undesignated center heading that precedes § 2.99 to read as follows:

Concurrent Use Proceedings

■ 20. Revise the undesignated center heading that precedes § 2.111 ''CANCELLATION'' to read as follows:

Cancellation Proceedings Before the Trademark Trial and Appeal Board

■ 21. Amend § 2.111 by revising paragraph (b) to read as follows:

§ 2.111 Filing petition for cancellation.

* * * * *

(b) Any person who believes that he, she, or it is or will be damaged by a registration may file a petition, addressed to the Trademark Trial and Appeal Board, for cancellation of the registration in whole or in part. The petition for cancellation need not be verified, but must be signed by the petitioner or the petitioner's attorney, as specified in § 11.1 of this chapter, or other authorized representative, as specified in § 11.14(b) of this chapter. Electronic signatures pursuant to § 2.193(c) are required for petitions submitted electronically via ESTTA. The petition for cancellation may be filed at any time in the case of registrations on the Supplemental Register or under the Act of 1920, or registrations under the Act of 1881 or the Act of 1905, which have not been published under section 12(c) of the Act, on any ground specified in section 14(3) or section 14(5) of the Act, or at any time after the three-year period following the date of registration on the ground specified in section 14(6) of the Act. In all other cases, including nonuse claims not specified in section 14(6), the petition for cancellation and the required fee must be filed within five years from the date of registration of the mark under the Act or from the date of publication under section 12(c) of the Act.

* * * * *

■ 22. Amend § 2.117 by revising paragraph (a) to read as follows:

§ 2.117 Suspension of proceedings.

(a) Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a civil action, another Board proceeding, or an expungement or reexamination proceeding may have a bearing on a pending case, proceedings before the Board may be suspended until termination of the civil action, the other Board proceeding, or the expungement or reexamination proceeding. A civil action or proceeding is not considered to have been terminated until an order or ruling that ends litigation has been rendered and noticed and the time for any appeal or other further review has expired with no further review sought.

* * * * *

■ 23. Revise § 2.141 to read as follows:

§ 2.141 *Ex parte* appeals from refusal to register by action of trademark examining attorney.

(a) An applicant may, upon final refusal to register by the trademark examining attorney, appeal to the Trademark Trial and Appeal Board upon payment of the prescribed fee for each class in the application for which an appeal is taken, within the time provided in § 2.62(a), including any granted extension of time to respond or appeal under § 2.62(a)(2). A second refusal to register on the same grounds may be considered as final by the applicant for purpose of appeal.

(b) The applicant must pay an appeal fee for each class from which the appeal is taken. If the applicant does not pay an appeal fee for at least one class of goods or services before expiration of the filing period, the application will be abandoned. In a multiple-class application, if an appeal fee is submitted for fewer than all classes, the applicant must specify the class(es) in which the appeal is taken. If the applicant timely submits a fee sufficient to pay for an appeal in at least one class, but insufficient to cover all the classes, and the applicant has not specified the

class(es) to which the fee applies, the Board will issue a written notice setting a time limit in which the applicant may either pay the additional fees or specify the class(es) being appealed. If the applicant does not submit the required fee or specify the class(es) being appealed within the set time period, the Board will apply the fee(s) to the class(es) in ascending order, beginning with the lowest numbered class containing goods and/or services at issue in the appeal.

■ 24. Amend § 2.142 by revising paragraphs (a), (b)(3), and (d) to read as follows:

§ 2.142 Time and manner of *ex parte* appeals.

(a) Any appeal filed under the provisions of § 2.141 must be filed within the time provided in § 2.62(a), including any granted extension of time to respond or appeal under § 2.62(a)(2). An appeal is taken by filing a notice of appeal, as prescribed in § 2.126, and paying the appeal fee.

(b) * * *

(3) Citation to evidence in briefs should be to the documents in the electronic record for the subject application or registration by date, the name of the paper under which the evidence was submitted, and the page number in the electronic record.

* * * * *

(d) The evidentiary record in the proceeding should be complete prior to the filing of an appeal. Evidence should not be filed with the Board after the filing of a notice of appeal.

(1) In an appeal from a refusal to register, if the appellant or the examining attorney desires to introduce additional evidence after an appeal is filed, the appellant or the examining attorney must submit a request to the Board to suspend the appeal and to remand the application for further examination.

(2) In an appeal from an expungement or reexamination proceeding, no additional evidence may be included once an appeal is initiated, and the Board may not remand for further examination.

* * * * *

■ 25. Add § 2.143 to read as follows:

§ 2.143 *Ex parte* appeals from expungement or reexamination proceeding.

(a) A registrant may, upon issuance of a final Office action in an expungement or reexamination proceeding under § 2.93, appeal to the Trademark Trial and Appeal Board by filing a notice of appeal, as prescribed in § 2.126, and upon payment of the prescribed fee for each class in the registration for which the appeal is taken, within two months of the date of issuance of the final Office action. If the registrant does not pay an appeal fee for at least one class of goods or services before expiration of the time for appeal, the Office shall terminate the appeal proceeding. In a multiple-class registration, if an appeal fee is submitted for fewer than all classes, the registrant must specify the class(es) in which the appeal is taken. If the registrant timely submits a fee sufficient to pay for an appeal in at least one class, but insufficient to cover all the classes, and the registrant has not specified the class(es) to which the fee applies, the Board will issue a written notice setting a time limit in which the registrant may either pay the additional fees or specify the class(es) being appealed. If the registrant does not submit the required fee or specify the class(es) being appealed within the set time period, the Board will apply the fee to the class(es) in ascending order, beginning with the lowest numbered class containing goods and/or services at issue in the reexamination and/or expungement proceeding.

(b) The time and manner of ex parte appeals made under paragraph (a) of this section shall, in all other respects, follow the time and manner set forth in § 2.142 (b)–(e).

■ 26. Amend § 2.145 by revising paragraphs (a)(1) and (c)(1) to read as follows:

§ 2.145 Appeal to court and civil action.

(a) * * * (1) An applicant for registration, a registrant in an expungement or reexamination proceeding, or any party to an interference, opposition, or cancellation, or any party to an application to register as a concurrent user, hereinafter referred to as inter partes proceedings, who is dissatisfied with the decision of the Trademark Trial and Appeal Board, and any registrant who has filed an affidavit or declaration under section 8 or section 71 of the Act or filed an application for renewal, and is dissatisfied with the decision of the Director (§§ 2.165, 2.184), may appeal to the United States Court of Appeals for the Federal Circuit. It is unnecessary to request reconsideration by the Board before filing any such appeal; however, a party requesting reconsideration must do so before filing a notice of appeal.

* * * * *

(c) * * * (1) Any person who may appeal to the United States Court of Appeals for the Federal Circuit (paragraph (a) of this section), except for a registrant subject to an ex parte expungement or reexamination proceeding, may have remedy by civil action under section 21(b) of the Act. It is unnecessary to request reconsideration by the Board before filing any such civil action; however, a party requesting reconsideration must do so before filing a civil action.

* * * * *

■ 27. Amend § 2.146 by:

■ a. Revising paragraphs (b) and (c), and

■ b. Adding paragraph (d)(2)(iv).

The revision and addition read as follows:

§ 2.146 Petitions to the Director.

* * * * *

(b) Questions of substance arising during the ex parte prosecution of applications, or expungement or reexamination of registrations, including, but not limited to, questions arising under sections 2, 3, 4, 5, 6, 16A, 16B, and 23 of the Act of 1946, are not appropriate subject matter for petitions to the Director.

(c)(1) Every petition to the Director shall include a statement of the facts relevant to the petition, the points to be reviewed, the action or relief requested, and the fee required by § 2.6. Any brief in support of the petition shall be embodied in or accompany the petition. The petition must be signed by the petitioner, someone with legal authority to bind the petitioner (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(5). When facts are to be proved on petition, the petitioner must submit proof in the form of verified statements signed by someone with firsthand knowledge of the facts to be proved, and any exhibits.

(2) A petition requesting reinstatement of a registration cancelled in whole or in part for failure to timely respond to an Office action issued in an expungement and/or reexamination proceeding must include a response to the Office action, signed in accordance with § 2.193.

(d) * * *

(2) * * *

(iv) Where an expungement or reexamination proceeding has been instituted under § 2.92, two months after the date of actual knowledge of the cancellation of goods and/or services in a registration and not later than six months after the date the trademark electronic record system indicates that the goods and/or services are cancelled.

■ 28. Amend § 2.149 by revising paragraphs (a) and (i) to read as follows:

§ 2.149 Letters of protest against pending applications.

(a) A third party may submit, for consideration and inclusion in the

record of a trademark application, objective evidence relevant to the examination of the application for a ground for refusal of registration if the submission is made in accordance with this section.

* * * * *

(i) Any determination whether to include evidence in the record of an application in a submission under this section is final and non-reviewable, and a determination to include or not include evidence in the application record shall not prejudice any party's right to raise any issue and rely on any evidence in any other proceeding.

* * * * *

■ 29. Amend § 2.163 by:

■ a. Revising paragraphs (b) and (c), and

■ b. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 2.163 Acknowledgment of receipt of affidavit or declaration.

* * * * *

(b) A response to the refusal must be filed within three months of the date of issuance of the Office action, or before the end of the filing period set forth in section 8(a) of the Act, whichever is later. The response must be signed by the owner, someone with legal authority to bind the owner (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(c) Unless notified otherwise in the Office action, the three-month response period designated in paragraph (b) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 2.6(a)(27). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

(d) When a timely response is a bona fide attempt to advance the examination of the affidavit or declaration and is a substantially complete response to the outstanding Office action, but consideration of some matter or compliance with a requirement has been omitted, the owner may be granted 30 days, or to the end of the response period set forth in the action to which the substantially complete response was submitted, whichever is longer, to explain and supply the omission before the cancellation is considered.

(e) If no response is filed within the time periods set forth above, the registration will be cancelled, unless time remains in the grace period under section 8(a)(3) of the Act. If time remains in the grace period, the owner may file a complete new affidavit.

■ 30. Revise § 2.165 to read as follows:

§ 2.165 Petition to Director to review refusal.

(a) A response to the examiner's initial refusal to accept an affidavit or declaration is required before filing a petition to the Director, unless the examiner directs otherwise. See § 2.163(b)–(c) for the deadline for responding to an examiner's Office action.

(b) If the examiner maintains the refusal of the affidavit or declaration, the owner may file a petition to the Director to review the action. The petition must be filed within three months of the date of issuance of the action maintaining the refusal.

(c) Unless notified otherwise in the Office action, the time for response designated in paragraph (b) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 2.6(a)(27). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

(d) If no response is filed within the time periods set forth above, the registration will be cancelled and a notice of cancellation will issue.

(e) A decision by the Director is necessary before filing an appeal or commencing a civil action in any court.

■ 31. Add an undesignated center heading before § 2.177 to read as follows:

Court Orders Under Section 37

■ 32. Add § 2.177 to read as follows:

§ 2.177 Action on court order under section 37.

(a) *Providing the order to the Office.* If a Federal court has issued an order concerning a registration under section 37 of the Act, a party to the court action must:

(i) Submit a certified copy of the order to the Director, addressed to the Office of the General Counsel, as provided in § 104.2 of this chapter; and

(ii) If the party is aware of proceedings concerning the involved registration that are pending or suspended before the Trademark Trial and Appeal Board, file a copy of such order with the Trademark Trial and Appeal Board via ESTTA.

(b) *Time for submission.* A submission under paragraph (a) of this section should not be made until after the court proceeding has been finally determined. A court proceeding is not considered finally determined until an order or ruling that ends the litigation has been rendered and noticed, and the time for any appeal or other further review has expired with no further review sought.

(c) *Action after submission.* After the court proceeding has been finally determined, appropriate action on a court order submitted under this section will normally be taken by the Office without the necessity of any submission by an interested party. In circumstances where the Director or the Trademark Trial and Appeal Board, if the order under section 37 involves a registration over which the Board has jurisdiction, determines that it would be helpful to aid in understanding the scope or effect of the court's order, a show cause or other order may issue directing the registrant, and if appropriate, the opposing parties to the action from which the order arose, to respond and provide information or arguments regarding the order. The Director may also request clarification of the order from the court that issued the order.

■ 33. Amend § 2.184 by revising paragraph (b) to read as follows:

§ 2.184 Refusal of renewal.

* * * * *

(b)(1) The registrant must file a response to the refusal of renewal within three months of the date of issuance of the Office action or before the expiration date of the registration, whichever is later.

(2) Unless notified otherwise in the Office action, the three-month response period designated in paragraph (b)(1) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 2.6(a)(27). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

(3) When a timely response is a bona fide attempt to advance the examination of the renewal application and is a substantially complete response to the outstanding Office action, but consideration of some matter or compliance with a requirement has been omitted, the owner may be granted 30 days, or to the end of the response period set forth in the action to which the substantially complete response was submitted, whichever is longer, to explain and supply the omission before the expiration is considered.

(4) If no response is filed within the time periods set forth above, the

registration will expire, unless time remains in the grace period under section 9(a) of the Act. If time remains in the grace period, the registrant may file a complete new renewal application.

(5) The response must be signed by the registrant, someone with legal authority to bind the registrant (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

* * * * *

■ 34. Amend § 2.186 by:

■ a. Revising paragraphs (b) and (c), and

■ b. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 2.186 Petition to Director to review refusal of renewal.

* * * * *

(b) If the examiner maintains the refusal of the renewal application, a petition to the Director to review the refusal may be filed. The petition must be filed within three months of the date of issuance of the Office action maintaining the refusal.

(c) Unless notified otherwise in the Office action, the three-month response period designated in paragraph (b) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 2.6(a)(27). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

(d) If no response is filed within the time periods set forth above, the renewal application will be abandoned and the registration will expire.

(e) A decision by the Director is necessary before filing an appeal or commencing a civil action in any court.

■ 35. Amend § 2.193 by revising paragraph (e)(5) introductory text to read as follows:

§ 2.193 Trademark correspondence and signature requirements.

* * * * *

(e) * * *

(5) *Petitions to Director under § 2.146 or § 2.147 or for expungement or reexamination under § 2.91.* A petition to the Director under § 2.146 or § 2.147 or for expungement or reexamination under § 2.91 must be signed by the petitioner, someone with legal authority to bind the petitioner (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the following guidelines:

* * * * *

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

■ 36. The authority citation for part 7 is revised to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, Pub. L. 116–260, 134 Stat. 1182, unless otherwise noted.

■ 37. Amend § 7.6 by adding paragraph (a)(9) to read as follows:

§ 7.6 Schedule of U.S. process fees.

(a) * * *

(9) *Extension of time for filing a response to an Office action under §§ 7.39(b) or 7.40(c).*

(i) For filing a request for extension of time for filing a response to an Office action under §§ 7.39(b) or 7.40(c) on paper—$225.00.

(ii) For filing a request for extension of time for filing a response to an Office action under §§ 7.39(b) or 7.40(c) via TEAS—$125.00.

* * * * *

■ 38. Revise § 7.39 to read as follows:

§ 7.39 Acknowledgment of receipt of and correcting deficiencies in affidavit or declaration of use in commerce or excusable nonuse.

The Office will issue a notice as to whether an affidavit or declaration is acceptable, or the reasons for refusal.

(a) A response to the refusal must be filed within three months of the date of issuance of the Office action, or before the end of the filing period set forth in section 71(a) of the Act, whichever is later. The response must be signed by the holder, someone with legal authority to bind the holder (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(b) Unless notified otherwise in the Office action, the three-month response period designated in paragraph (a) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 7.6(a)(9). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

(c) When a timely response is a bona fide attempt to advance the examination of the affidavit or declaration and is a substantially complete response to the outstanding Office action, but consideration of some matter or compliance with a requirement has been omitted, the holder may be granted 30 days, or to the end of the response period set forth in the action to which the substantially complete response was submitted, whichever is longer, to explain and supply the omission before the cancellation is considered.

(d) If no response is filed within this time period, the extension of protection will be cancelled, unless time remains in the grace period under section 71(a)(3) of the Act. If time remains in the grace period, the holder may file a complete, new affidavit.

(e) If the affidavit or declaration is filed within the time periods set forth in section 71 of the Act, deficiencies may be corrected after notification from the Office, as follows:

(1) *Correcting deficiencies in affidavits or declarations timely filed within the periods set forth in sections 71(a)(1) and 71(a)(2) of the Act.* If the affidavit or declaration is timely filed within the relevant filing period set forth in section 71(a)(1) or section 71(a)(2) of the Act, deficiencies may be corrected before the end of this filing period without paying a deficiency surcharge. Deficiencies may be corrected after the end of this filing period with payment of the deficiency surcharge required by section 71(c) of the Act and § 7.6.

(2) *Correcting deficiencies in affidavits or declarations filed during the grace period.* If the affidavit or declaration is filed during the six-month grace period provided by section 71(a)(3) of the Act, deficiencies may be corrected before the expiration of the grace period without paying a deficiency surcharge. Deficiencies may be corrected after the expiration of the grace period with payment of the deficiency surcharge required by section 71(c) of the Act and § 7.6.

(f) If the affidavit or declaration is not filed within the time periods set forth in section 71 of the Act, the registration will be cancelled.

■ 39. Revise § 7.40 to read as follows:

§ 7.40 Petition to Director to review refusal.

(a) A response to the examiner's initial refusal to accept an affidavit or declaration is required before filing a petition to the Director, unless the examiner directs otherwise. See § 7.39(b)–(c) for the deadline for responding to an examiner's Office action.

(b) If the examiner maintains the refusal of the affidavit or declaration, the holder may file a petition to the Director to review the examiner's action. The petition must be filed within three months of the date of issuance of the action maintaining the refusal.

(c) Unless notified otherwise in the Office action, the three-month response period designated in paragraph (b) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 7.6(a)(9). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

(d) If no response is filed within the time periods set forth above, the registration will be cancelled.

(e) A decision by the Director is necessary before filing an appeal or commencing a civil action in any court.

Andrew Hirshfeld,

Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2021–10116 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–16–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[FPISC Case 2018–001; Docket No. 2018–0008, Sequence No. 1]

RIN 3090–AJ88

Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations by the Federal Permitting Improvement Steering Council; Withdrawal

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) hereby withdraws its proposal to establish an initiation fee for project sponsors to reimburse the Permitting Council for reasonable costs associated with implementing and managing certain aspects of the program established under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). The Permitting Council will continue to assess the relative merits of collecting fees from project sponsors and various fee structures, and may undertake a separate fees rulemaking in the future.

DATES: The proposed rule published on September 4, 2018 (83 FR 44846), is withdrawn on May 18, 2021.

FOR FURTHER INFORMATION CONTACT: John G. Cossa, General Counsel, Federal Permitting Improvement Steering Council, 1800 G St. NW, Suite 2400, Washington, DC 20006, *john.cossa@fpisc.gov,* or by telephone at 202–255–6936.

People who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact this individual during normal business hours or to leave a message at other times. FIRS is available 24 hours a day, 7 days a week. You will receive a reply to a message during normal business hours.

SUPPLEMENTARY INFORMATION: The Permitting Council administers FAST–41, 42 U.S.C. 4370m *et seq.,* which serves to improve the timeliness, predictability, and transparency of the Federal environmental review and authorization processes for ''covered'' infrastructure projects. Pursuant to 42 U.S.C. 4370m–8(a), Permitting Council member agencies may issue regulations establishing a fee structure for project sponsors to reimburse the United States for ''reasonable costs'' incurred in conducting environmental reviews and authorizations for FAST–41 covered projects. Reasonable costs include the cost of administering the FAST–41 program and the Permitting Council. 42 U.S.C. 4370m–8(b).

On September 4, 2018, the Permitting Council proposed to establish an initiation fee for project sponsors to reimburse the United States for reasonable costs associated with implementing certain FAST–41 provisions and operating the Permitting Council's Office of the Executive Director. 83 FR 44846. The Permitting Council continues to assess the advantages and disadvantages of: (i) Collecting fees from project sponsors; (ii) various fee structures in light of the diverse range of FAST–41 covered projects; and (iii) how such fees could be used to most effectively comply with and accomplish the goals of FAST–41. In particular, the Permitting Council is considering whether implementing fees at this time may dissuade project sponsors from seeking FAST–41 coverage because project review can span more than two years and the FAST–41 program is currently scheduled to terminate in on December 4, 2022. 42 U.S.C. 4370m–12. The Permitting Council does not anticipate completing its assessment of these and other issues related to the fee proposal in the immediate future, and therefore is withdrawing the proposed rule. The Permitting Council may revisit a FAST–41 fees rulemaking in the future.

Authority: 42 U.S.C. 4370m *et seq.*

John Cossa,

General Counsel, Federal Permitting Improvement Steering Council.

[FR Doc. 2021–10047 Filed 5–17–21; 8:45 am]

BILLING CODE 6820–PL–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–BK31

Fisheries of the Exclusive Economic Zone Off Alaska; Cook Inlet Salmon; Amendment 14

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

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted Amendment 14 to the Fishery Management Plan for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) Off Alaska (Salmon FMP) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 14 would incorporate the Cook Inlet EEZ Subarea into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the Council and NMFS. Amendment 14 would manage the Cook Inlet EEZ Subarea by applying the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. Amendment 14 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Salmon FMP, and other applicable laws.

DATES: Comments must be received no later than July 19, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0018, by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to *https://www.regulations.*gov and enter NOAA–NMFS–2021–0018 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of proposed Amendment 14 to the Salmon FMP, the Environmental Assessment/Regulatory Impact Review/Social Impact Analysis prepared for this action (the Analysis), and the draft Finding of No Significant Impact prepared for this action may be obtained from *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Doug Duncan, 907–586–7228 or *doug.duncan@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Council has submitted Amendment 14 to the Salmon FMP to the Secretary for review. If approved, Amendment 14 would incorporate the Cook Inlet EEZ Subarea into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the Council and NMFS. Amendment 14 would manage the Cook Inlet EEZ Subarea by applying the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. Amendment 14 is necessary to make the Salmon FMP consistent with the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and to comply with a U.S. Court of Appeals for the Ninth Circuit ruling requiring the Salmon FMP be amended to include the Cook Inlet EEZ area within its fishery management unit. Amendment 14 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Salmon FMP, and other applicable laws.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. This document announces that proposed Amendment 14 to the Salmon FMP is available for public review and comment.

The Council prepared, and the Secretary approved, the Salmon FMP under the authority of sections 302(h)(1) and 303(b) of the Magnuson-Stevens Act, 16 U.S.C. 1852(h)(1) and 1853(b)). The Salmon FMP is implemented by Federal regulations governing U.S. fisheries at 50 CFR part 679. The Council is authorized to prepare and recommend an FMP amendment for the conservation and management of a fishery covered under the FMP.

Amendment 14 to the Salmon FMP was adopted by the Council in December 2020. The Council worked from 2017 to 2020 developing Amendment 14, ultimately concluding that federally managing the Cook Inlet EEZ Subarea by prohibiting commercial salmon fishing optimized conservation and management of the Cook Inlet salmon fishery when considering the costs and benefits of the available management alternatives, which are described in Section 2 of the Analysis. Important factors in the Council's decision were that maintaining the status quo would be inconsistent with the Magnuson-Stevens Act and the Ninth Circuit ruling, and that the State of Alaska (State) would not accept a delegation of management authority for the Cook Inlet EEZ. The only other viable management alternative considered but not selected by the Council would have created a new Federal management regime for the commercial salmon fishery in the Cook EEZ separate and distinct from the adjacent State water salmon fishery.

Federal management of the Cook Inlet EEZ Subarea through closure of the area to commercial salmon fishing (1) takes the most precautionary approach to minimizing the potential for overfishing, (2) provides the greatest opportunity for maximum harvest from the Cook Inlet salmon fishery, (3) avoids creating new management uncertainty, (4) minimizes regulatory burden to fishery participants, (5) maximizes management efficiency for Cook Inlet salmon fisheries, and (6) avoids the introduction of an additional management jurisdiction into the already complex and interdependent network of Cook Inlet salmon fisheries.

The proposed closure is consistent with the Council's longstanding salmon management policy, which is to facilitate salmon management by the State. As with the existing West Area, this policy would be achieved by prohibiting commercial fishing for salmon in the Cook Inlet EEZ Subarea so that the State can manage Cook Inlet salmon stocks as a unit within State waters. Except for maximum sustained yield (MSY), optimum yield (OY), and annual catch limits (ACL), all West Area management measures would apply to the Cook Inlet EEZ Subarea. MSY and OY would be separately specified for the Cook Inlet salmon fishery, and ACL would be separately specified for the commercial salmon fishery in the Cook Inlet EEZ Subarea, reflecting the fact that Cook Inlet salmon stocks have historically been harvested in both State and Federal waters. MSY would be established for the Cook Inlet salmon fishery as the maximum amount of harvest possible under the State's escapement goals, which is the largest long-term average catch that can be taken by the fishery under prevailing ecological, environmental conditions and fishery technological characteristics (*e.g.,* gear selectivity), and the distribution of catch among fishery sectors (50 CFR 600.310(e)(1)(i)). The OY range for the Cook Inlet salmon fishery would be the combined catch from all salmon fisheries occurring within Cook Inlet (State and Federal water catch), which results in a post-harvest abundance within the escapement goal range for stocks with escapement goals, and below the historically sustainable average catch for stocks without escapement goals, except when management measures required to conserve weak stocks necessarily limit catch of healthy stocks. Amendment 14 would establish an ACL of zero for the commercial salmon fishery in Cook Inlet EEZ Subarea.

To delineate these separate reference points from those currently specified for the West Area, the Cook Inlet EEZ would be defined as the Cook Inlet EEZ Subarea. Amendment 14 would make no changes to management measures applicable to the remainder of the West Area (*i.e.,* the West Area outside of the Cook Inlet EEZ Subarea). Amendment 14 would not modify State management measures, nor would it preclude the State from adopting additional management measures that could provide additional harvest opportunities for harvesters within State waters.

The Council considered Amendment 14's consistency with the Magnuson-Stevens Act's 10 National Standards and how the Amendment balances competing demands within the National Standards (16 U.S.C. 1851). While all 10 of the National Standards were considered, 5 national standards were particularly relevant to the Council's decision: National Standard 1, National Standard 2, National Standard 3, National Standard 7, and National Standard 8.

By prohibiting commercial salmon harvest in the Cook Inlet EEZ Subarea, Amendment 14 would avoid creating new management uncertainty and reduce the risk of overfishing or foregone yield inherent to an independent Federal management regime that would not be well-suited to respond to in-season data as necessary to adjust harvest levels. Amendment 14 would enable the State to continue managing salmon fisheries within escapement goals, as described in Sections 3.1 and 11 of the Analysis, in order to achieve optimum yield and prevent overfishing, consistent with National Standard 1. The Council continues to recognize that the State is best situated to respond to changing conditions inseason to maximize utilization of salmon stocks under the constraints of weak stock management in a mixed stock fishery, and that the State's escapement goals are based on the best scientific information available, consistent with National Standard 2. Under Amendment 14, all commercial salmon fishing in Cook Inlet would occur in State waters under State management, unifying management of Cook Inlet salmon stocks across their range consistent with National Standard 3. Further, closure of the Cook Inlet EEZ would create the most efficient Cook Inlet salmon management arrangement of the two available management approaches, minimizing direct costs and regulatory burdens on participants and avoiding unnecessary duplication of management measures, consistent with National Standard 7. The Council considered the impact of Amendment 14 on fishing communities and determined that, while fishery benefits may be redistributed among sectors within fishing communities, Amendment 14 would provide for the sustained participation of those communities and, to the extent practicable, minimize adverse economic impacts on such communities within the constraints of conservation and management goals as described in Section 4.7.1.4 of the Analysis, consistent with National Standard 8.

If approved, Amendment 14 would close an area historically used by the Upper Cook Inlet (UCI) drift gillnet fleet. The UCI drift gillnet fleet currently operates in both State and EEZ waters without specific reference to the boundary and is the only commercial salmon fishery that would be directly regulated by this action. This action would not close, or otherwise modify management of, salmon fishing in State waters where the UCI drift gillnet fleet could continue to operate.

Amendment 14 would amend the Salmon FMP as described below. Most importantly, Section 2.1 ''Salmon Management Area'' would be modified to remove the ''Cook Inlet Area'' from the ''Areas Excluded from the Salmon Management Area.'' This would incorporate the Cook Inlet Area into the rest of the West Area where commercial salmon fishing is prohibited. Further, the Cook Inlet Area would be redefined as the ''Cook Inlet EEZ Subarea,'' to indicate that it is part of the larger West Area for many management measures but to distinguish it from the West Area for distinct reference points to account for the Cook Inlet EEZ Subarea's unique history. Section 6.2 ''West Area'' would be updated to separately specify MSY, OY, and ACL for the Cook Inlet EEZ Subarea, reflecting the fact that Cook Inlet salmon stocks have historically been harvested in both State and Federal waters. Two traditional net fishing areas, the Prince William Sound Area and the Alaska Peninsula Area, would remain excluded from the salmon management area. Figure 1 would be revised to display the Cook Inlet EEZ Subarea within the Salmon Management Area.

Section 2.3.3 ''Commercial Salmon Fishery in the West Area'' would be modified to describe conditions for the fishery under Amendment 14 and make technical corrections for clarity. The first paragraph would revised to specify that under Amendment 14, ''most of'' the West Area has been historically closed to commercial salmon fishing. The third paragraph of the section would be modified to include additional descriptions of historical salmon management under the 1990 version of the Salmon FMP when the traditional net fishing areas were included in the Salmon FMP's fishery management unit, but not subject to the West Area prohibition on commercial salmon fishing. A technical clarification to the fourth paragraph of the section would improve the historical description of traditional net fishing areas under Amendment 12. The last change to this section would be the addition of a concluding paragraph describing Amendment 14's reincorporation of the Cook Inlet Area into the West Area, and the application of the West Area prohibition on commercial salmon fishing to the reincorporated Cook Inlet EEZ Subarea.

Several other changes would be made throughout the Salmon FMP for consistency and clarity. Section 5 ''Regulation of the Salmon Fisheries'' would clarify that closing the ''West Area'' rather than ''EEZ Waters'' to commercial salmon fishing enables the State to manage Alaska salmon stocks. A similar clarification would be made in Section 8.2 ''Safety'' to indicate that commercial salmon fisheries operating in the EEZ are outside of the West Area. Section 6.2 ''West Area'' would also be updated to specify that under Amendment 14, ''most of'' the West Area has been closed to commercial salmon fishing since the Salmon FMP's inception in paragraph 2. In Section 8.1.8 ''Bycatch Management'', a paragraph would be added to explain that no Standardized Bycatch Reporting Methodology (SBRM) is applicable to the West Area because no commercial fisheries are authorized there, but that SBRM would be implemented if commercial salmon fishing were authorized in the future. The Salmon FMP introductory summary section, Section 1.1 ''History of the FMP'', and Table 1 would be updated with concise language describing conditions established under Amendment 14. Finally, the table of contents and list of figures would be updated to reflect all of these changes to the Salmon FMP.

NMFS is soliciting public comments on proposed Amendment 14 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 14, following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act. All comments received by the end of the comment period on Amendment 14, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 14. Comments received after that date may not be considered in the approval/disapproval decision on Amendment 14. To be certain of consideration, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period.

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

Dated: May 13, 2021.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–10450 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 86, No. 94
Tuesday, May 18, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Notice of Request for Emergency Approval

May 13, 2021.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Department of Agriculture (USDA) has submitted a request to the Office of Management and Budget (OMB) for a six-month emergency approval of the following information collection: ICR 0570–NEW, Rural Development Cooperative Agreements (RDCA). The requested approval would enable the collection of this information and the implementation of this program while USDA completes the normal PRA approval process.

Rural Business-Cooperative Service

Title: Rural Development Cooperative Agreements (RDCA).

OMB Control Number: 0570–NEW.

Summary of Collection: Due to a three-fold decision by the White House, Congress, and the USDA it is paramount that this program be implemented no later than May 20, 2021. In part due to the critical need to deliver funding to rural communities, and to ensure that the information is collected for this new information collection remains active during the PRA approval process, USDA has submitted a request to the OMB for a short-term emergency approval, to November 30, 2021.

On May 10, 2021 the Director, Regulations Management Division Innovation Center, Rural Development, USDA signed a memorandum to the Administrator of the Office of Information and Regulatory Affairs, OMB. The memorandum included a request for an emergency approval, explained USDA's justification for this approval, and was electronically submitted to OMB on May 11, 2021.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–10449 Filed 5–17–21; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the South Carolina Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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 South Carolina Advisory Committee (Committee) will hold a meeting via-teleconference on Thursday, June 3, 2021, at 12:00 p.m. (EST) the purpose of the meeting is to for the Committee to plan its next civil rights project.

DATES: The meeting will be held on: Thursday, June 3, 2021 at 12:00 p.m. Eastern Time, *https://tinyurl.com/y46v27ky*, or Join by phone, 800–360–9505 USA Toll Free.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez at *bdelaviez@usccr.gov* or (202) 539–8246.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference operator will ask callers to identify themselves, the organizations they are affiliated with (if any), and an email address prior to placing callers into the conference call. 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 1–800–977–8339 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 office within 30 days following the meeting. Written comments may be emailed to Carolyn Allen at *callen@usccr.gov* in the Regional Program Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Program Unit Office at (202) 539–8246.

Records generated from this meeting may be inspected and reproduced at the Regional Program Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzmPAAQ* under the Commission on Civil Rights, South Carolina Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Program Unit at the above email or phone number.

Agenda

1. Roll Call
2. Project Planning—update on civil assert court case
3. Public Comment
4. Adjourn

Dated: May 13, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–10465 Filed 5–17–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Boundary and Annexation Survey

AGENCY: Census Bureau, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of

1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed revision of the Boundary and Annexation Survey, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before July 19, 2021.

ADDRESSES: Interested persons are invited to submit written comments by email to *robin.a.pennington@census.gov.* Please reference ''Boundary and Annexation Survey'' in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2021–0012, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Michael Clements, Geography Division, Spatial Data Collection and Products Branch, at 301–763–9124 or *michael.j.clements@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau conducts many voluntary geographic programs designed to collect addresses, boundaries, and linear features for incorporation into Master Address File and Topologically Integrated Geographic Encoding and Reference (MAF/TIGER) System. The Boundary and Annexation Survey (BAS) is one of these programs. It provides tribal, state, and local governments an opportunity to review the Census Bureau's legal boundary data to ensure the Census Bureau has the correct boundary, name, and status information. BAS also allows participants to review and provide updates to Census Designated Places (CDPs). BAS fulfills the agency's responsibility as part of the National Spatial Data Infrastructure, for which the Office of Management and Budget (OMB) Circular A–16 designates the Census Bureau as the lead federal agency for maintaining national data about legal government boundaries, as well as statistical and administrative boundaries. BAS supports the spatial data steward responsibilities of the OMB E-Gov, *Data.gov*, the National Map, and Geographic Names Information System.

The Census Bureau uses the boundaries collected in BAS to tabulate data for various censuses and surveys including the decennial census, American Community Survey (ACS), and Population Estimates Program (PEP). It also uses the legal boundaries collected through BAS to support several other programs such as Congressional and State Legislative redistricting, the Economic Census, the Geographic Update Population Certification Program, and the Special Census program.

Numerous federal programs also rely on accurate boundaries collected through BAS. The U.S. Geological Survey's National Map is updated annually to depict the legal boundaries provided by BAS. The Department of Housing and Urban Development uses legal boundaries to determine jurisdictional eligibility for various grant programs, such as the Community Development Block Grant program. In addition, the Department of Agriculture uses legal boundaries to determine eligibility for various rural housing and economic development programs.

The BAS participation process is like the Census Bureau's other geographic programs with key differences in the participants, requirements, and timeframe of the program. BAS follows the process outlined below:

- The Census Bureau notifies all eligible tribal, state, and local governments that the program has started. BAS participants receive notification through email and mail.
- Tribal, state, and local governments are instructed to review the legal boundary, name, and status information, along with the contact information the Census Bureau has on file for their government. Eligible governments can review their boundaries using the Census Bureau's TIGERweb online Geographic Information System (GIS) viewer, partnership shapefiles, or PDF maps.
- Eligible governments respond if they have legal boundary, CDP, or contact updates to report through an online form, email, fax, or mail. Participants with boundary updates can choose to report updates using the Census Bureau's Geographic Update Partnership Software (GUPS), their own GIS, or on paper maps. Participants choose to receive the materials through download, by mail on CD/DVD, or on large format paper maps.
- Tribal, state, and local governments return updates to the Census Bureau. Paper map updates are returned through the mail, while updates created using GUPS or participant's own GIS are returned through the Census Bureau's Secure Web Incoming Module (SWIM) file transfer module.
- The Census Bureau processes and verifies all tribal, state, and local government boundary updates for accuracy and completeness. The updates are incorporated into the Census Bureau's database and quality control is performed.
- The Census Bureau uses the updated boundaries to tabulate data for various censuses and surveys, including the decennial census, ACS, and PEP.

Legal Information

The Census Bureau reviews and maintains a list of each state's legal boundary laws and statutes. This information is made available to tribal, state, and local government participants on the BAS website. In addition, the Census Bureau uses this information to verify that updates provided by program participants are made in accordance with state law.

If it comes to the Census Bureau's attention that an area of non-tribal land is in dispute between two or more jurisdictions, the Census Bureau will not make annexations or boundary corrections until all affected parties come to a written agreement, or there is a documented final court decision regarding the matter and/or dispute.

If there is a dispute over an area of tribal land, the Census Bureau will not make boundary updates until the participants provide supporting documents or the U.S. Department of the Interior issues a comment. If necessary, the Census Bureau will request clarification regarding current boundaries or supporting documentation, from the U.S. Department of the Interior, Office of the Solicitor.

BAS Universe

BAS includes approximately 40,000 tribal, state, and local governments. Annually, the following government

types are invited to participate in the program:

- Federally recognized tribes with a reservation or off-reservation trust land (including tribal subdivisions).
- States.
- Counties and county equivalent governments.
- Incorporated Places (including Consolidated Cities).
- Minor Civil Divisions.
- A single respondent for the Hawaiian home land boundary and status information.
- A single respondent for the municipio, barrio, barrio-pueblo, and subbarrio boundary and status information in Puerto Rico.

The Census Bureau also established state and county-level partnership agreements where either the state or county responds on behalf of the local governments within its jurisdiction. Local governments within these agreements are notified of the BAS program, however, do not receive materials or provide boundary updates directly. Those governments are instructed to work with their state or county BAS contact to provide the updates to the Census Bureau.

II. Method of Collection

The Census Bureau collects legal boundary, CDP, and contact updates through the BAS program. The BAS program also works with tribal, state, and local governments on other efforts to update and maintain the quality of the legal boundary data. The following collection methods allow the Census Bureau to coordinate among various levels of governments to obtain the most accurate legal boundary, CDP, and contact information:

- BAS
  - Annual Response
  - Submissions—Digital and Paper
  - Non-Response Follow-Up
  - State Agreements
  - Consolidated BAS (CBAS) Agreements
- State Certification
- Boundary Quality

BAS

The Census Bureau collects legal boundary, CDP, and contact updates from tribal, state, and local governments during BAS. Governments are first contacted during annual response where they are asked if they have legal boundary, CDP, or contact updates to report. Those indicating they have updates to provide can choose to create a submission using an approved response method. Those governments that do not respond to annual response or those governments that indicate they have updates to provide are followed up with during BAS non-response follow-up. The BAS schedule is outlined below.

- January 1—Boundary updates must be legally in effect on or before this date to be reported in the current survey year.
- January to May—Tribal, state, and local governments respond during annual response or non-response follow-up indicating if they have legal boundary, CDP, or contact updates to report. Those with boundary updates to report download or request materials to create a submission to return to the Census Bureau.
- Early January—The Census Bureau sends the annual response email. Tribal, state, and local governments are contacted through email to determine if they have legal boundary, CDP, or contact updates to report.
- Late January—The Census Bureau sends the annual response letter. Tribal, state, and local governments that do not have an email address on file with the Census Bureau or did not respond to the annual response email are contacted through mail to determine if they have legal boundary, CDP, or contact updates to report.
- Mid-February—The Census Bureau conducts BAS non-response follow-up through email. Governments that have not responded to annual response, along with those that indicated they have boundary changes to report, are contacted through email.
- March 1—Boundary updates returned by this date will be reflected in the ACS and PEP data and in next year's BAS materials.
- March to May—The Census Bureau conducts BAS non-response telephone follow-up. Governments that did not respond to the annual response email, letter, and non-response email are contacted over the phone to determine if they have any legal boundary, CDP, or contact updates to report.
- May 31—Boundary updates returned by this date will be reflected in next year's BAS materials.

BAS—Annual Response

The Census Bureau first contacts tribal, state, and local governments during annual response. During this phase, the Census Bureau contacts all eligible governments through email and mail. The BAS annual response email includes program information and directs governments to respond through an online form if they have legal boundary, CDP, or contact updates to report. Only those governments that do not have an email address on file with the Census Bureau or did not respond to the annual response email are contacted through mail. The mailed package consists of a letter, one-page response form, and program flyer.

Through annual response, participants are instructed to review the legal boundary, name, and status information, along the contact information that the Census Bureau has on file for their government. BAS participants are also able to review CDP boundaries. Eligible governments can review their boundaries using the Census Bureau's TIGERweb online GIS viewer, partnership shapefiles, or PDF maps.

Participants respond if they have legal boundary, CDP, or contact updates to report through an online form, email, fax, or mail. Those indicating they have updates to provide can choose to create a submission using the Census Bureau's GUPS tool, their own GIS, or on paper maps. Participants can request to receive the materials to create their submission through download, by mail on CD/DVD or on large format paper maps.

The Census Bureau uses email and encourages participants to use the online form to respond to annual response to reduce cost and participant burden.

BAS—Submissions

Tribal, state, and local governments with boundary updates can choose to create a submission using either digital or paper response methods during annual response. The data provided to the partners, by the Census Bureau, are derived from its MAF/TIGER database. The boundary data reflects updates reported by partners through the prior year's BAS.

BAS—Digital Submission Methods

The Census Bureau offers participants two digital submission methods. Governments with boundary updates can create a submission using the GUPS tool or their own GIS. When completing annual response, participants select one of the following options:

- CD/DVD. Participants can choose to receive GUPS and the partnership shapefiles through mail on CD/DVD.
- Download. Participants can choose to download GUPS and partnership shapefiles, or partnership shapefiles only to use in their own GIS. The Census Bureau also offers a partnership toolbox that can be used in the partner's own GIS.

Those partners that elect to receive digital materials on CD/DVD will receive a package through the mail containing the following materials:

- Letter.
- State specific inserts.
- Form specific to the government type.
  - BAS–1—Incorporated places and consolidated cities.
  - BAS–2—Counties and county equivalent governments.
  - BAS–3—Minor civil divisions.
  - BAS–5—Federally recognized tribal reservations and off-reservation trust lands.
- CD or DVD containing GUPS tool.
- CD or DVD containing partnership shapefiles, respondent guides, and a readme text file.

Governments that elect to download materials can find the software, partnership shapefiles, respondent guides, and other information included in the letter and form on the BAS website.

Tribal, state, and local governments use GUPS or their own GIS to create a submission with legal boundaries updates, and optionally, CDPs, linear features and landmarks updates. Partners return these updates electronically using the Census Bureau's SWIM file transfer module. Governments selecting one of the digital response methods during annual response will receive SWIM access information through email.

BAS—Paper Submission Method

The Census Bureau also provides partners a paper map option to create a submission with legal boundary, CDP, linear feature, and landmark updates. When completing annual response, partners select the following option:

- Paper maps. Participants can choose to receive large format paper maps through mail.

Those partners that elect to receive paper maps will receive a package through the mail containing the following materials:

- Letter.
- State specific inserts.
- Form specific to the government type.
  - BAS–1—Incorporated places and consolidated cities.
  - BAS–2—Counties and county equivalent governments.
  - BAS–3—Minor civil divisions.
  - BAS–5—Federally recognized tribal reservations and off-reservation trust lands.
- Large format paper maps covering the extent of the government.
- Supplies to update the paper maps.
- Respondent guide.
- Postage-paid return envelope.

Tribal, state, and local governments use the provided supplies to annotate legal boundaries updates, and optionally, CDPs, linear features and landmarks updates on paper maps. Partners return these updates using the Census Bureau provided postage-paid return envelope.

BAS—Non-Response Follow-Up

Tribal, state, and local governments that do not respond to annual response or those governments that indicate they have updates to provide are followed up with during BAS non-response follow-up. Non-response follow-up is conducted through email and over the phone.

Governments that have not responded to annual response, along with those that indicated they have boundary changes to report, are first contacted through email. The email reminds participants to respond through an online form if they have legal boundary, CDP, or contact updates to report. Those governments that indicated they have boundary updates to report are requested to submit those updates to the Census Bureau by the BAS program deadline.

Partners that still have not responded are contacted by phone later in the program cycle. Governments are requested to provide a response over the phone on whether they have legal boundary, CDP, or contact updates to report. Again, those governments that indicated they have boundary updates to report are reminded to submit those updates to the Census Bureau by the program deadline.

State Agreements

BAS state agreements allow for the coordination and sharing of information and resources between the Census Bureau and state governments in collecting boundary information for local governments. Through this agreement with state governments, the Census Bureau aims to reduce the duplication of effort across various levels of governments as well as the cost and time burden associated with participating in BAS. To facilitate a state agreement, the Census Bureau may enter a Memorandum of Understanding (MOU) with the state. States interested in establishing a state agreement MOU can do so when there is state legislation requiring local governments to report all legal boundary updates to a state agency.

The Census Bureau currently maintains two types of state agreements. In the first type of agreement, the state reports boundary changes for all local governments within its jurisdiction during BAS. Local governments in this type of agreement are notified about BAS, however, do not receive materials to participate, and are instructed to report all boundary updates to the state so that they are reported to the Census Bureau. Under the second type of agreement, the state provides the Census Bureau with a list of local governments that reported boundary changes. The Census Bureau uses the list to target those local governments during BAS. States have the option to report the list of governments with known legal boundary changes to the Census Bureau.

Consolidated BAS (CBAS) Agreements

The Census Bureau offers CBAS agreements to counties or county equivalent governments that are interested in submitting boundary updates for legal governments within their jurisdiction. CBAS agreements help ensure collection of complete and accurate boundary data, reduces duplication of effort between local and county governments and the Census Bureau, and reduces the cost and time burden on local governments. Once entered into a CBAS agreement, local governments are notified about BAS, however, do not receive materials to participate, and are instructed to report all boundary updates to the county or county equivalent government so that they are reported to the Census Bureau.

State Certification

The state certification program provides an annual opportunity for state agencies to verify that the legal boundary, name, and status information received through BAS updates were reported in accordance with state law. The Census Bureau requests that each state governor designate a state certifying official (SCO) to participate in the program. The SCO reviews listings of legal boundary changes, as well as government names and statuses that were submitted through the previous year's BAS. These listings include the attribute information for new incorporations, dissolutions, mergers, consolidations, and legal boundary changes. The listings also include the names and functional statuses of all local governments within the state's jurisdiction. The SCO can request that the Census Bureau edit the attribute data, add missing records, or remove invalid records. Invalid records only are removed if the state government maintains an official record of all changes to legal boundaries and governments as mandated by state law. The state certification schedule is as follows:

- October—The Census Bureau sends out governor's letters requesting the state appoint an SCO to participate in the program.

• December—The Census Bureau distributes the SCO emails. The SCO email contains information required by the SCO to participate in the program.

• March—The Census Bureau distributes discrepancy emails to local governments based on feedback from the SCO.

The state certification materials include a governor's letter, an email to the SCO, respondent guide, legal boundary change and government name and status listings, and discrepancy email to local governments. The listings and respondent guide are provided on the BAS website. The SCO returns all updates electronically through the SWIM file transfer module.

Boundary Quality

The Boundary Quality project is designed to assess, analyze, and improve the spatial quality of legal, statistical, and administrative boundaries within the Census Bureau's MAF/TIGER System. Ensuring quality boundaries is a critical component of the geographic preparations for each decennial census and the Census Bureau's ongoing geographic programs. In addition, the improvement of boundary quality is an essential element of the Census Bureau's commitment as the responsible agency for legal boundaries under OMB Circular A–16.

The Boundary Quality project represents an effort to systematically target and assess boundary quality within the Census Bureau's MAF/TIGER System. Historically, it has relied exclusively on geographic programs such as BAS and the Participant Statistical Areas Program (PSAP) to obtain updates to tribal, state, local government, and CDP boundaries. While programs like BAS play an essential role in improving boundary quality, the goal of boundary quality activities is to establish a more accurate baseline for legal boundaries and CDPs within an entire state or county. BAS would build on this baseline by collecting individual legal boundary changes and optionally associated addresses, and CDP updates, on a transaction basis as they occur over the years.

III. Data

OMB Control Number: 0607–0151.

Form Number(s): BAS–1, BAS–2, BAS–3, BAS–5, BAS–ARF.

Type of Review: Regular submission, Request for a Revision of a Currently Approved Collection.

Affected Public: Tribal, state, and local governments in all fifty states and District of Columbia.

Estimated Number of Respondents: 40,000 governments.

Estimated Time per Response: 7.5 hours. This estimate is based on an average of 5 hours for a no change participant and 10 hours for a participant with changes.

Estimated Total Annual Burden Hours: 300,000.

Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 6.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–10369 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

National Advisory Committee

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public virtual meeting.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice of a virtual meeting of the National Advisory Committee (NAC). The Committee will address ongoing outreach efforts needed to assist with the designing of a differential privacy suite for the 2020 Census data products that will meet programmatic, legal, and statistical requirements, including work on both the primary and secondary disclosure avoidance systems. The Committee will also finalize its recommendations from the Spring NAC meeting. Last-minute changes to the schedule are possible, which could prevent giving advance public notice of schedule adjustments. Please visit the Census Advisory Committees website at *http://www.census.gov/cac* for the NAC meeting information, including the agenda, and how to join the meeting.

DATES: The virtual meeting will be held on:

• Thursday, May 27, 2021, from 2:30 p.m. to 6:00 p.m. EDT

ADDRESSES: The meeting will be held via the WebEx platform at the following presentation link: *https://uscensus.webex.com/uscensus/onstage/g.php?MTID=e86fe2b4e09472f245694a495a18d5542.*

For audio, please call the following number: 888–324–9613. When prompted, please use the following Password: Census#1, and Passcode: 6877091#.

FOR FURTHER INFORMATION CONTACT: Shana Banks, Advisory Committee Branch Chief, Office of Program, Performance and Stakeholder Integration (PPSI), *shana.j.banks@census.gov*, Department of Commerce, U.S. Census Bureau, telephone 301–763–3815. For TTY callers, please use the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The NAC provides scientific and technical expertise to address Census Bureau program needs and objectives. The members of the NAC are appointed by the Director of the Census Bureau. The NAC has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10).

All meetings are open to the public. A brief period will be set aside during the virtual meeting for public comments on May 27, 2021. However, individuals with extensive questions or statements must submit them in writing to *shana.j.banks@census.gov,* (subject line ''NAC Differential Privacy Virtual Meeting Public Comment'').

Ron S. Jarmin, Acting Director, Bureau of the Census, approved the publication of this Notice in the **Federal Register**.

Dated: May 11, 2021.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–10370 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–823, A–351–857, A–533–903, A–823–820, A–552–833]

Raw Honey From Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable May 11, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas Martin at (202) 482–3936 (Argentina); Justin Neuman at (202) 482–0486 (Brazil); Brittany Bauer at (202) 482–3860 (India); Jasun Moy at (202) 482–8194 (Ukraine); and Jonathan Hill at (202) 482–3518 (the Socialist Republic of Vietnam (Vietnam)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On April 21, 2021, the Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of raw honey from Argentina, Brazil, India, Ukraine, and Vietnam filed in proper form on behalf of the American Honey Producers Association (AHPA) and the Sioux Honey Association (SHA) (collectively, the petitioners), which are trade associations representing domestic producers of raw honey.[1]

Between April 22 and May 4, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.[2] The petitioners filed responses to the supplemental questionnaires between April 26 and May 6, 2021.[3]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of raw honey from Argentina, Brazil, India, Ukraine, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the raw honey industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

Commerce finds that the petitioners filed the Petitions on behalf of the domestic industry, because the petitioners are interested parties, as defined in sections 771(9)(E) of the Act.

Commerce also finds that the petitioners demonstrated sufficient industry support for the initiation of the requested AD investigations.[4]

Periods of Investigation

Because the Petitions were filed on April 21, 2021, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Argentina, Brazil, India, and Ukraine AD investigations is April 1, 2020, through March 31, 2021. Because Vietnam is a non-market economy (NME) country, pursuant to 351.204(b)(1), the POI for the Vietnam investigation is October 1, 2020, through March 31, 2021.

Scope of the Investigations

The product covered by these investigations is raw honey from Argentina, Brazil, India, Ukraine, and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On April 22, April 27, and May 4, 2021, Commerce requested information and clarification from the petitioners regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[5] On April 23, April 26, and May 6, 2021, the petitioners responded to these requests and provided additional clarification and revisions to the scope.[6] The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[7] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[8] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00

[1] *See* Petitioners' Letter, ''Raw Honey from Argentina, Brazil, India, Ukraine and the Socialist Republic of Vietnam—Petition for the Imposition of Antidumping Duties,'' dated April 21, 2021 (the Petitions), Volume I at 2 and Exhibit GEN–1.

[2] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping Duties on Imports of Raw Honey from Argentina, Brazil, India, Ukraine and the Socialist Republic of Vietnam: Supplemental Questions,'' dated April 22, 2021 (General Issues Supplemental); Country-Specific Supplemental Questionnaires: Argentina Supplemental, Brazil Supplemental, India Supplemental, Ukraine Supplemental, and Vietnam Supplemental, dated April 26, 2021 and May 4, 2021; and Memoranda, ''Petitions for the Imposition of Antidumping Duties on Imports of Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Phone Call with Counsel to the Petitioners,'' dated April 27, 2021 (April 27, 2021 Scope Phone Call and April 27, 2021 Industry Support Phone Call, respectively), and May 4, 2021 (May 4, 2021 General Issues Phone Call and May 4, 2021 AD Phone Call, respectively).

[3] *See* Petitioners' Letter, ''Raw Honey from Argentina, Brazil, India, Ukraine and the Socialist Republic of Vietnam—Petitioners' Response to the General Issues Supplemental Questionnaire of the U.S. Department of Commerce,'' dated April 26, 2021 (First General Issues Supplement); *see also* Petitioners' Country-Specific Supplemental Responses, dated April 29, 2021 and May 6, 2021; and Petitioners' Letter, ''Raw Honey from Argentina, Brazil, India, Ukraine and the Socialist Republic of Vietnam—Petitioners' Response to the Second General Issues Supplemental Questionnaire of the U.S. Department of Commerce,'' dated May 3, 2021 (Second General Issues Supplement); and Petitioners' Letter, ''Raw Honey from Argentina, Brazil, India, Ukraine and the Socialist Republic of Vietnam—Petitioners' Response to the Third General Issues Supplemental Questionnaire of the U.S. Department of Commerce,'' dated May 6, 2021 (Third General Issues Supplement).

[4] *See infra,* section on ''Determination of Industry Support for the Petitions.''

[5] *See* General Issues Supplemental at 3; *see also* April 27, 2021 Scope Phone Call at 1; and May 4, 2021 General Issues Phone Call at 1–2.

[6] *See* Petitioners' Letter, ''Scope Clarification to Antidumping Duty Petition on Raw Honey from Argentina, Brazil, India, Ukraine and the Socialist Republic of Vietnam,'' dated April 23, 2021 (Scope Clarification) at 3–4; First General Issues Supplement at 2–6; and Third General Issues Supplement at 2–4.

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[8] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

p.m. Eastern Time (ET) on June 1, 2021, which is the next business day after 20 calendar days from the signature date of this notice.[9] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on June 11, 2021, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[10] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of raw honey to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe raw honey, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on June 1, 2021, which is the next business day after 20 calendar days from the signature date of this notice.[11] Any rebuttal comments must be filed by 5:00 p.m. ET on June 11, 2021. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations.[14] Based on our analysis of the information submitted on the record, we have determined that raw honey, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[15]

[9] The 20-day deadline falls on May 31, 2021, which is a federal holiday. Therefore, in accordance with the *Next Business Day Rule,* the deadline moves to the next business day, June 1, 2021. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended,* 70 FR 24533 (May 10, 2008) (*Next Business Day Rule*).

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[11] The 20-day deadline falls on May 31, 2021, which is a federal holiday. Therefore, in accordance with the *Next Business Day Rule,* the deadline moves to the next business day, June 1, 2021.

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[14] *See* Petitioners at Volume I at 15–19 and Exhibit GEN–7.

[15] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Checklists, ''Antidumping Duty Investigation Initiation Checklists: Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam,'' dated concurrently with this notice and on file electronically via ACCESS (Country-Specific AD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping Duty Petitions Covering Raw Honey from Argentina,

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioners provided their own 2020 production of the domestic like product.[16] On April 26, 2021, the American Beekeeping Federation (ABF) submitted a letter stating its support for the Petitions and establishing the estimated 2020 production for its members.[17] The petitioners compared the estimated production by the supporters of the Petitions, adjusted to account for known overlap between membership of the petitioning associations and membership of the ABF, to the total 2020 U.S. production of raw honey reported in the U.S. Department of Agriculture's National Agricultural Statistics Service's *National Honey Report*.[18] We relied on data provided by the petitioners and ABF for purposes of measuring industry support.[19]

Our review of the data provided in the Petitions, the First General Issues Supplement, the ABF Letter, the Second General Issues Supplement, the Third General Issues Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petitions.[20] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[21] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[22] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[23] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[24]

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[25]

The petitioners contend that the industry's injured condition is illustrated by significant and increasing volume and market share of subject imports; lost sales and revenues; underselling and price depression and/or suppression; decrease in production and increase in honey stocks; and decline in financial performance.[26] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[27]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of raw honey from Argentina, Brazil, India, Ukraine, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For Brazil, India, Ukraine, and Vietnam, the petitioners based export price (EP) on the average unit values (AUVs) of publicly available import data for raw honey produced in and exported from each country during the POI. For Argentina, the petitioners submitted information indicating that Argentina experienced high inflation during the proposed POI.[28] Due to this alleged high inflation, the petitioners based EP on AUVs of publicly available import data for raw honey produced in and exported from Argentina for only certain months of the POI corresponding to the months for which a home market price was available. Additionally, the petitioners made certain adjustments to these U.S. prices to calculate a net ex-factory U.S. price.[29]

Normal Value [30]

For Argentina, Brazil, India, and Ukraine, the petitioners based NV on home market price quotes obtained through market research for raw honey produced in and sold, or offered for sale, in each country within the applicable time period.[31]

Commerce considers Vietnam to be an NME country.[32] In accordance with

Brazil, India, Ukraine, and the Socialist Republic of Vietnam (Attachment II).

[16] *See* Petitions at Volume I at 2–5 and Exhibits GEN–1 and GEN–2; *see also* General Issues Supplement at 6–7 and Attachment 5; Second General Issues Supplement at 3–4 and Attachment 1; and Third General Issues Supplement at Attachment 1.

[17] *See* ABF's Letter, ''Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam—Letter of Support on Behalf of American Beekeeping Federation,'' dated April 26, 2021 (ABF Letter); *see also* Second General Issues Supplement at Attachment 1. The ABF is a trade association that represents over 1,300 U.S. producers of raw honey. *See* ABF Letter at 1. The ABF updated its members' 2020 production in a declaration it provided to the petitioners. *See* Third General Issues Supplement at 4–6 and Attachment 1.

[18] *See* Petitions at Volume I at GEN–2; *see also* Second General Issues Supplement at 3–4 and Attachment 1; and Third General Issues Supplement at 4–6 and Attachment 1.

[19] *See* Petitions at Volume I at Exhibit GEN–2; *see also* General Issues Supplement at 6–7 and Attachment 5; ABF Letter; and Second General Issues Supplement at 3–4 and Attachment 1; and Third General Issues Supplement at 4–6 and Attachment 1.

[20] *See* Country-Specific AD Initiation Checklists at Attachment II.

[21] *Id.; see also* section 732(c)(4)(D) of the Act.

[22] *See* Country-Specific AD Initiation Checklists at Attachment II.

[23] *Id.*

[24] *Id.*

[25] *See* Petitions at Volume I at 20–21 and Exhibit GEN–8.

[26] *Id.* at 20–34 and Exhibits GEN–2, GEN–5, GEN–7 and GEN–9 through GEN–12.

[27] *See* Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petitions Covering Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam (Attachment III).

[28] *See* Second Argentina AD Supplement at Exhibit AD–AR–SUPP2–1 (citing, *e.g., Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019,* 86 FR 15190 (March 22, 2021), and accompanying Issues and decision Memorandum at 10 (Comment 1)).

[29] *See* Country-Specific AD Initiation Checklists.

[30] In accordance with section 773(b)(2) of the Act, for the Argentina, Brazil, India, and Ukraine investigations, Commerce will request information necessary to calculate the constructed value and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[31] *See* Country-Specific AD Initiation Checklists.

[32] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016–2017,* 84 FR 18007 (April 29, 2019).

section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat Vietnam as an NME country for purposes of the initiation of this investigation. Accordingly, NV in Vietnam is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioners claim that India is an appropriate surrogate country for Vietnam because India is a market economy country that is at a level of economic development comparable to that of Vietnam and is a significant producer of identical merchandise. The petitioners provided publicly available information from India to value all FOPs. Based on the information provided by the petitioners, we determine that it is appropriate to use India as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Vietnamese producers/exporters was not reasonably available, the petitioners used their own product-specific consumption rates as a surrogate to value Vietnamese manufacturers' FOPs.[33] Additionally, the petitioners calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of two Indian producers of identical merchandise.[34]

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of raw honey from Argentina, Brazil, India, Ukraine, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP, as applicable, to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for raw honey for each of the countries covered by this initiation are as follows: (1) Argentina: 9.75–49.44 percent; (2) Brazil: 83.72 percent; (3) India: 27.02–88.48 percent; (4) Ukraine: 9.49–92.94 percent; and (5) Vietnam: 47.56–138.23 percent.[35]

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of raw honey from Argentina, Brazil, India, Ukraine, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

Argentina, Brazil, India, and Ukraine

In the Petitions, the petitioners named 18 companies in Argentina, 18 companies in Brazil, 19 companies in India, and 9 companies in Ukraine as producers/exporters of raw honey.[36] Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of exporters or producers in any individual case is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents in that case based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigations,'' in the appendix.

On May 5, 2021, Commerce released CBP data on imports of raw honey from Argentina, Brazil, India, and Ukraine under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations.[37] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo.*

Vietnam

In the Petition, the petitioners named 12 companies as producers/exporters of raw honey in Vietnam.[38] In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of Vietnamese producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Given that there are 12 producers and exporters identified in the Petition, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioners have provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at *https://www.trade.gov/ec-adcvd-case-announcements.* Producers/exporters of raw honey from Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Vietnamese producers/exporters no later than 5:00 p.m. ET on May 27, 2021. All

[33] *See* Petitions at Volume VI at 6–8 and Exhibit AD–VN–2.

[34] *See* Petitioners' Letter, ''Raw Honey from Vietnam—Petitioners' Supplement to Volume VI Relating to a Request for the Imposition of Antidumping Duties on Imports from Vietnam,'' dated April 29, 2021 at 10 and Exhibit AD-Supp-VN–1, Attachment 6.

[35] *See* Country-Specific Initiation Checklists for details of calculations.

[36] *See* Petitions at Volume I at Exhibit GEN–4.

[37] *See* Country-Specific Memoranda, ''Antidumping Duty Investigation of Raw Honey: Release of Customs Data from U.S. Customs and Border Protection,'' dated May 5, 2021.

[38] *See* Petitions at Volume I at Exhibit GEN–4.

Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[39] The specific requirements for submitting a separate-rate application in an Vietnam investigation are outlined in detail in the application itself, which is available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[40] Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from Vietnam submit a response both to the Q&V questionnaire and to the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[41]

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the AD Petitions have been provided to the governments of Argentina, Brazil, India, Ukraine, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of raw honey from Argentina, Brazil, India, Ukraine, and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.[42] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[43] Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [44] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[45] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the COP in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET

[39] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[40] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[41] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[42] *See* section 733(a) of the Act.

[43] *Id.*

[44] *See* 19 CFR 351.301(b).

[45] *See* 19 CFR 351.301(b)(2).

on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review Commerce's regulations pertaining to the extension of time limits prior to submitting factual information in these investigations.[46]

Certification Requirements

Any party submitting factual information in an AD or countervailing duty proceeding must certify to the accuracy and completeness of that information.[47] Parties must use the certification formats provided in 19 CFR 351.303(g).[48] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letter of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[49]

[46] *See Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[47] *See* section 782(b) of the Act.

[48] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[49] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 11, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The merchandise covered by these investigations is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.,* a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (*e.g.,* in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to these investigations is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

[FR Doc. 2021–10440 Filed 5–17–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 5, 2021, the United States Court of International Trade (the Court) issued its final judgment in *Risen Energy Co., Ltd. et al.* v. *United States,* Consol. Court No. 19–00153, sustaining the Department of Commerce (Commerce)'s first remand redetermination pertaining to the 2016–2017 antidumping duty (AD) administrative review of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China). Commerce is notifying the public that the Court's final judgment in this litigation is not in harmony with Commerce's final results in the 2016–2017 AD administrative review of solar cells from China, and that Commerce is amending the final results with respect to the mandatory respondent Risen Energy Co., Ltd. (Risen) and three non-individually examined companies.

DATES: Applicable May 15, 2021.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, 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) 482–2769.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 2019, Commerce published its *Final Results* of the 2016–2017 AD administrative review of solar cells from China.[1] Risen appealed Commerce's *Final Results.* On October 30, 2020, the Court remanded Commerce's *Final Results* for Commerce to reconsider or further explain its application of partial adverse facts available (AFA) in valuing unreported factors of production (FOPs) for merchandise sourced from Risen's unaffiliated suppliers, which were necessary for calculating Risen's [2] dumping margin.[3]

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017,* 84 FR 36886 (July 30, 2019) (*AR5 Final Results*), and accompanying Issues and Decision Memorandum.

[2] Commerce has treated the following seven companies as a single entity: Risen Energy Co., Ltd.; Risen (Wuhai) New Energy Co., Ltd.; Zhejiang Twinsel Electronic Technology Co., Ltd.; Risen (Luoyang) New Energy Co., Ltd.; Jiujiang Shengchao Xinye Technology Co., Ltd.; Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch; and Risen Energy (Hong Kong) Co., Ltd. (collectively, Risen). *See AR5 Final Results.*

[3] *See Risen Energy Co., Ltd., et al.* v. *United States,* 477 F. Supp. 3d 1331 (CIT 2020) (*Risen I*).

In its Remand Redetermination, pursuant to the Court's holding in *Risen I,* Commerce determined, under respectful protest, to base Risen's unreported FOP consumption on partial facts available rather than partial AFA.[4] Specifically, Commerce based the unreported FOP consumption on the average of the consumption that was reported for certain of Risen's FOPs.[5] Commerce assigned the margin calculated for Risen to those respondents eligible for a separate rate and which participated in the litigation.[6] On May 5, 2021, the Court sustained Commerce's Remand Redetermination.[7]

Timken Notice

In its decision in *Timken,*[8] as clarified by *Diamond Sawblades,*[9] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's May 5, 2021, judgment constitutes a final decision of the Court that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Final Results.* The amended weighted-average dumping margin for the respondents which participated in this litigation is as follows:

Exporter	Weighted-average dumping margin (percent)
Risen Energy Co., Ltd./Risen (Wuhai) New Energy Co., Ltd./Zhejiang Twinsel Electronic Technology Co., Ltd./Risen (Luoyang) New Energy Co., Ltd./Jiujiang Shengchao Xinye Technology Co., Ltd./Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch/ Risen Energy (Hong Kong) Co., Ltd	3.63
Canadian Solar International Limited/Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang), Inc./CSI Cells Co., Ltd./CSI–GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc	3.30
Shanghai BYD Co., Ltd	3.30
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./Shenzhen Yingli New Energy Resources Co., Ltd	3.30

Because the cash deposit rates for all of the respondents listed above have a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, this notice does not affect the current cash deposit rates of these respondents and we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP).

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: Were exported by all of the respondents listed above and were entered, or withdrawn from warehouse, for consumption during the period December 1, 2016, through November 30, 2017. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the Court's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by all of the respondents listed above in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis.* Where an import-specific *ad valorem* assessment rate is zero or *de minimis,*[10] we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: May 12, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–10439 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–876]

Fine Denier Polyester Staple Fiber From India: Preliminary Results of Countervailing Duty Administrative Review; 2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Reliance Industries Limited (Reliance), a producer/exporter of fine denier polyester staple fiber (fine denier PSF) from India, received countervailable subsidies that are above *de minimis* during the period of review, January 1, 2019, through December 31, 2019.

DATES: Applicable May 18, 2021.

FOR FURTHER INFORMATION CONTACT: Ariela Garvett, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

[4] *See Final Results of Redetermination Pursuant to Court Order, Risen Energy Co., Ltd. et al.* v. *United States,* Consol. Court No. 19–00153, Slip Op. 20–152 (February 10, 2021) at 4.

[5] *Id.* at 6.

[6] *Id.* at 7–8.

[7] *See Risen Energy Co., Ltd., et al.* v. *United States, et al.,* Consol. Court No. 19–00153, Slip Op. 21–55 (Ct. Int'l Trade May 5, 2021).

[8] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[9] See *Diamond Sawblades Manufacturers Coalition* v. United States, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond* Sawblades).

[10] *See* 19 CFR 351.106(c)(2).

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3609.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 2020, Commerce published a notice of initiation of an administrative review of the countervailing duty order on fine denier PSF from India with respect to Reliance.[1] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by 60 days,[2] thereby extending the deadline for these preliminary results until February 1, 2021.[3] On January 6, 2021, Commerce postponed the preliminary results of this review by 95 days until May 5, 2021.[4] On May 3, 2021, Commerce postponed the preliminary results of this review by an additional seven days until May 12, 2021.[5]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[6] A list of topics discussed in the Preliminary Decision Memorandum is included at the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic 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/.*

Scope of the Order

The merchandise covered by the *Order* is fine denier polyester staple fiber (fine denier PSF). For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[7] For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate for the sole mandatory respondent, Reliance, for the period January 1, 2019, through December 31, 2019:

Company	Subsidy rate (percent *ad valorem*)
Reliance Industries Limited	4.89

Assessment Rate

Consistent with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Rate

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, Commerce will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose to parties in this proceeding the calculations performed in reaching the preliminary results within five days of publication of these preliminary results in the **Federal Register**.[8] Interested parties may submit written comments (case briefs) on the preliminary results no later than 30 days from the date of publication of this **Federal Register** notice, and rebuttal comments (rebuttal briefs) within seven days after the time limit for filing case briefs.[9] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[10]

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 by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[11] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues addressed at the hearing will be limited to those raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[12] Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 26931 (May 6, 2020) (*Initiation Notice*) at 26935.

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[3] The actual deadline for completing the preliminary results was January 30, 2021. Because January 30, 2021 is a Saturday, the deadline moved to the next business day, February 1, 2021. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results,'' dated January 6, 2021.

[5] *See* Memorandum, ''Second Extension of Deadline for Preliminary Results,'' dated May 3, 2021.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2019 Administrative Review of the Countervailing Duty Order on Fine Denier Polyester Staple Fiber from India,'' dated concurrently, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5)(A) of the Act regarding specificity.

[8] *See* 19 CFR 351.224(b).

[9] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); *see also* 19 CFR 351.303 (for general filing requirements).

[10] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[11] *See* 19 CFR 351.310(c).

[12] *Id.*

proprietary information, until further notice.[13]

Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Notification to Interested Parties

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: May 12, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Use of Facts Otherwise Available and Application of Adverse Inferences
V. Subsidies Valuation Information
VI. Analysis of Programs
VII. Recommendation

[FR Doc. 2021–10441 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–850]

Thermal Paper From Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances in Part, Postponement of Final Determination, and Extension of Provisional Measures; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) published notice in the **Federal Register** of May 12, 2021, in which Commerce made a preliminary affirmative determination of sales at less than fair value (LTFV) of thermal paper from Germany. This notice failed to include language regarding the suspension of liquidation for Papierfabrik August Koehler SE (Koehler) during the critical circumstances period.

DATES: Applicable May 12, 2021.

FOR FURTHER INFORMATION CONTACT: David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4136.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of May 12, 2021, in FR Doc 2021–09965, on page 26002, in the second column, correct the ''Suspension of Liquidation'' section to add the following second and third paragraphs which had been omitted:

Section 733(e)(2) of the Tariff Act of 1930, as amended (the Act), provides that, given an affirmative determination of critical circumstances, the suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) The date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. As noted above, Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced and exported by Koehler. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of thermal paper from Germany that were produced and/or exported by Koehler that are entered, or withdrawn from warehouse, for consumption on or after February 11, 2021, which is 90 days before the publication date of the *Preliminary Determination* in the **Federal Register**.

These suspension of liquidation instructions will remain in effect until further notice.

Background

On May 12, 2021, Commerce published in the **Federal Register** a preliminary affirmative determination of sales at LTFV of thermal paper from Germany.[1] This notice failed to include language regarding the suspension of liquidation for Koehler during the critical circumstances period.

Notification to Interested Parties

This notice serves as a correction and is published in accordance with sections 773(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 12, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–10438 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–985]

Xanthan Gum From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty order on xanthan gum from the People's Republic of China (China) covering the period, July 1, 2016, through June 30, 2017, to include results with respect to Neimenggu Fufeng Biotechnologies Co., Ltd. (a.k.a. Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd. (collectively, Fufeng).

DATES: Applicable May 18, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas Hanna, 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) 482–0835.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this review on August 14, 2018.[1] On September 21, 2018, Fufeng,[2] a mandatory respondent, and Tate and Lyle, a U.S. importer, filed case briefs.[3]

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[1] *See Thermal Paper from Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances in Part, Postponement of Final Determination,* and Extension of Provisional Measures, 86 FR 26001 (May 12, 2021).

[1] *See Xanthan Gum from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2016–2017,* 83 FR 40229 (August 14, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] Fufeng refers to the collapsed entity Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.) and Shandong Fufeng Fermentation, Co., Ltd. (collectively, Fufeng).

[3] *See* Fufeng's Letter, ''Fufeng Case Brief in the Fourth Administrative Review of Antidumping Duty Order on Xanthan Gum from the People's Republic of China (A–570–985),'' dated September 20, 2018; *see also* Tate and Lyle's Letter, ''Xanthan

Continued

No other interested parties filed comments on the *Preliminary Results* of review.

Pursuant to a series of remand orders and the Court of International Trade (CIT)'s final judgment regarding the underlying less-than-fair-value (LTFV) investigation, Commerce amended its final determination and prior amended final determination and *Order* and excluded merchandise produced and exported by Fufeng from the *Order*.[4] Accordingly, on December 19, 2018, Commerce published the *Final Results* of this review, in which it discontinued the review of Fufeng during the pendency of the appeals process.[5]

On February 10, 2020, the Court of Appeals for the Federal Circuit (CAFC) reversed the CIT's decision that resulted in the exclusion of Fufeng from the *Order*.[6] Accordingly, Commerce issued a third amended final determination in the LTFV investigation of xanthan gum from China, in which it found Fufeng subject to the *Order* and announced its intention to resume the instant review of Fufeng.[7] Commerce is now amending its final results of this administrative review by completing the administrative review with respect to Fufeng.

Scope of the Order

The scope of the *Order* covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in the *Order* regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber. Merchandise covered by the scope of the *Order* is classified in the Harmonized Tariff Schedule of the United States at subheading 3913.90.20. Although this tariff classification is provided for convenience and customs purposes, the written description of the scope remains dispositive. [8]

Analysis of Comments Received

All issues raised in Fufeng's case brief are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. We have included a list of sections in the Issues and Decision Memorandum in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/inidex.html.*

Changes Since the Preliminary Results

We corrected certain ministerial errors and made other changes to our preliminary dumping margin calculations.

Amended Final Results of Review

We are assigning the following calculated weighted-average dumping margin to the firm listed below for the period July 1, 2016, through June 30, 2017:

Producer or exporter	Weighted-average dumping margin (percent)
Neimenggu Fufeng Biotechnologies Co., Ltd. (a.k.a. Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd	0.00

Disclosure

Commerce intends to disclose to the parties to the proceeding the calculations that it performed for these amended final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate POR entries of subject merchandise from Fufeng without regard to antidumping duties. For entries that were not reported in the U.S. sales database submitted by Fufeng, but that were entered under Fufeng's case number (*i.e.,* at Fufeng's cash deposit rate), Commerce will instruct CBP to liquidate such entries at the China-wide rate (*i.e.,* 154.07 percent).

Consistent with its recent notice,[9] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these amended final results of this review in the **Federal Register**. If a timely summons is filed at the CIT, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results of this review, as provided for by section 751(a)(2)(C) of the Act: (1) For Fufeng, the cash deposit rate will be the weighted-average dumping margin percentage that is listed in the table above; (2) for previously investigated or reviewed China and non-China

Gum from China—Tate and Lyle Case Brief,'' dated September 20, 2018.

[4] *See Xanthan Gum from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 78 FR 43143 (July 19, 2013) (*Order*); *see also CP Kelco US, Inc.* v. *United States,* Ct. No. 13–00288, Slip Op. 15–27 (CIT March 31, 2015); *CP Kelco US, Inc.* v. *United States,* Ct. No. 13–00288, Slip Op. 16–36 (CIT April 8, 2016); *CP Kelco US, Inc.* v. *United States,* 211 F. Supp. 3d 1338 (CIT 2017); *CP Kelco US, Inc.* v. *United States,* Ct. No. 13–00288, Slip Op. 18–36 (CIT April 5, 2018); *CP Kelco US, Inc.* v. *United States,* Ct. No. 13–00288, Slip Op. 18–120 (CIT September 17, 2018); and *Xanthan Gum From the People's Republic of China: Notice of Court Decision Not in Harmony With Amended Final Determination in Less Than Fair Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; Notice of Revocation of Antidumping Duty Order in Part; and Discontinuation of Fourth and Fifth Antidumping Duty Administrative Reviews in Part,* 83 FR 52205 (October 16, 2018).

[5] *See Xanthan Gum from the People's Republic of China: Final Results of Antidumping Duty Administrative Review;* Final Determination of No Shipments, Partial Discontinuation of Antidumping Duty Administrative Review; 2016–2017, 83 FR 65143 (December 19, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum.

[6] *See CP Kelco US, Inc.* v. *United States, Neimenggu Fufeng Biotechnologies Co., Ltd., Shandong Fufeng Fermentation Co., Ltd.,* 949 F.3d 1348 (Fed. Cir. 2020).

[7] *See Xanthan Gum from the People's Republic of China: Notice of Third Amended Final Determination Pursuant to Court Decision,* 85 FR 40967 (July 8, 2020).

[8] For the full text of the scope of the *Order, see* the accompanying Issues and Decision Memorandum.

[9] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

exporters not listed in the table above that have a separate rate, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recent period; (3) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity, which is 154.07 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursemet of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders (APOs)

This notice also serves as a reminder to parties subject to APOs of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice of amended final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act ad 19 CFR 351.221(b)(5).

Dated: May 10, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Sections in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the Preliminary Results of Review
V. Discussion of the Issues
Comment 1: Ministerial Errors in the Margin Calculation
Comment 2: Ministerial Errors in the Liquidation Instructions
Comment 3: Surrogate Value for Sodium Hypochlorite
Comment 4: Value Added Tax Deduction
VI. Recommendation

[FR Doc. 2021–10437 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Request for Applicants for the Appointment to the United States-India CEO Forum

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice announces membership opportunities for appointment, or reappointment, to the U.S. Section of the U.S.-India CEO Forum.

DATES: Applications should be received no later than 45 days after publication of this Notice.

ADDRESSES: Please send requests for consideration to Noor Sclafani at the Office of South Asia, U.S. Department of Commerce, by email at *noor.sclafani@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Noor Sclafani, International Trade Specialist, Office of South Asia, U.S. Department of Commerce, telephone: (202) 823–1840.

SUPPLEMENTARY INFORMATION: Established in 2005, the U.S.-India CEO Forum brings together leaders of the respective business communities of the United States and India to discuss issues of mutual interest, particularly ways to strengthen the economic and commercial ties between the two countries, and to communicate their joint recommendations to the U.S. and Indian governments.

The Forum will have U.S. and Indian public and private sector co-chairs. The Secretary of Commerce will serve as the U.S. Government chair. Other senior U.S. Government officials may also participate in the Forum.

The Forum also includes U.S. and Indian private sector members, who will be divided into two sections. The U.S. Section will consist of up to 20 members representing the views and interests of the private sector business community in the United States. Each government will appoint the members to its respective Section. The Secretary of Commerce will appoint the U.S. Section and the U.S. Section's private sector co-chair. The Forum will allow the private sector to develop and provide recommendations to the two governments that reflect private sector views, needs, concerns, and suggestions about the creation of an environment in which their respective private sectors can partner, thrive, and enhance bilateral commercial ties to expand trade and economic links between the United States and India. The Forum will work in tandem with, and provide input to, the government-to-government U.S.-India Commercial Dialogue.

Candidates are currently being sought for membership in the U.S. Section. Each candidate must be the Chief Executive Officer or President (or have a comparable level of responsibility) of a U.S.-owned or controlled company that is incorporated in and has its main headquarters located in the United States and is currently conducting business in both countries. Candidates must be U.S. citizens or otherwise legally authorized to work in the United States and be generally able to travel to India and locations in the United States to attend Forum meetings as well as U.S. Section meetings. Travel and in-person activities are contingent upon the safety and health conditions in the United States and India. Should safety or health conditions not be appropriate for travel and/or in-person activities, the meeting may be postponed or a virtual meeting may be scheduled instead. The candidate may not be a registered foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Applications for membership in the U.S. Section by eligible individuals will be evaluated based on the following criteria:

- A demonstrated commitment by the individual's company to the Indian market either through exports or investment.
- A demonstrated strong interest in India and its economic development.
- The ability to offer a broad perspective and business experience to the discussions.
- The ability to address cross-cutting issues that affect the entire business community.
- The ability to initiate and be responsible for activities in which the Forum will be active.
- If applicable, prior work by the applicant on the U.S. Section of the Forum.

The evaluation of applications for membership in the U.S. Section will be undertaken by a committee of staff from multiple U.S. Government agencies. The

U.S. Section of the Forum should include members who represent a diversity of business sectors and geographic locations. To the extent possible, the U.S. Section should include members from small, medium, and large firms. The Secretary will consider the same criteria when appointing the U.S. private sector co-chair.

U.S. Section members will receive no compensation for their participation in Forum-related activities. Individual members will be responsible for all travel and related expenses associated with their participation, including attendance at Forum and Section meetings. At the meetings, the U.S. and Indian Sections will be expected to offer recommendations to the U.S. and Indian governments. Only appointed members may participate in official Forum meetings; substitutes and alternates may not participate. U.S. Section members will serve for three-year terms but may be reappointed.

To be considered for membership in the U.S. Section, please submit the following information as instructed in the **ADDRESSES** and **DATE** captions above: Name and title of the individual requesting consideration; name and address of company's headquarters; location of incorporation; size of the company; size of company's export trade, investment, and nature of operations or interest in India; and a brief statement describing the candidate's qualifications that should be considered, including information about the candidate's ability to initiate and be responsible for activities in which the Forum will be active. Candidates who have previously been members of the U.S. Section will need to submit new application materials. All candidates will be notified once selections have been made.

Dated: May 12, 2021.

Valerie Dees,

Director of the Office of South Asia.

[FR Doc. 2021–10378 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Selection of Naval Undersea Warfare Center Newport Division as the Designated Institute for Underwater Acoustics Measurements

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST), an agency of the United States Department of Commerce, has designated the Naval Undersea Warfare Center (NUWC) Division Newport as the U.S. Designated Institute (DI) for Underwater Acoustics Measurements to meet the needs of the national security of the United States. This designation is in accordance with the Mutual Recognition Arrangement (MRA) of the Comité International des Poids et Mesures (CIPM), to which NIST is a signatory as the National Measurement Institute (NMI) of the United States. Section 6.1 of the MRA allows NIST to designate a laboratory other than itself to participate in the CIPM key comparisons on behalf of its nation and to be responsible for disseminating the national measurement standards relevant to a particular measurand if a substantial and demonstrable scientific need, trade barrier to an industry in the United States, or a national security need is addressed by such designation and such need cannot be addressed by NIST.

DATES: NIST's designation of the Naval Undersea Warfare Center (NUWC) Division Newport as the U.S. Designated Institute for Underwater Acoustics Measurements will expire on March 31, 2024. NIST will consider comments from the public regarding this designation received by that date as part of an annual review of the status and performance of the DI.

ADDRESSES: Comments regarding NIST's designation or any requests for further information may be sent to James Fedchak, Associate Director for Measurement Services, Physical Measurement Laboratory, National Institute of Standards and Technology, by mail to 100 Bureau Drive, Mail Stop 8400, Gaithersburg, Maryland 20899, or by electronic mail to *james.fedchak@nist.gov.*

FOR FURTHER INFORMATION CONTACT: For further information, please contact James Fedchak, Associate Director for Measurement Services, Physical Measurement Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8400, Gaithersburg, Maryland 20899, or by electronic mail to *james.fedchak@nist.gov* or (301) 975–8962.

SUPPLEMENTARY INFORMATION:

Background Information: As the NMI of the United States, NIST is responsible for all measurement standards in the United States. NIST is a signatory to the CIPM MRA. Section 6.1 of the MRA provides for cases where an NMI chooses to nominate a laboratory other than itself to be responsible for the national measurement standards relevant to that particular measurand. Under the provisions of the MRA, NIST may designate a U.S. organization other than itself to be the DI responsible for certain national measurement standards and associated services that are not covered by the activities of NIST in accordance with the terms of the MRA.

The DI is responsible for the following tasks: Maintaining the United States' national measurement standard for a specific measurand; disseminating standards for that measurand to industry, government, and academia in the United States; submitting its quality system for review by the NIST Quality Manager and the NIST Measurement Services Council, or their designees; and maintaining its National Voluntary Laboratory Accreditation Program (NVLAP) accreditation with a scope that covers the intended measurement capability. When it is determined by NIST to be appropriate, the DI is responsible for these additional tasks: Participating, in partnership with NIST, in activities of the MRA; establishing and maintaining calibration and measurement capabilities (CMCs) that address the scope of designation for inclusion in the International Bureau of Weights and Measures (BIPM) Key Comparison Database; and participating in BIPM and Regional Metrology Organization Key Comparisons.

The status and performance of a DI will be reviewed annually by the NMSC (or their designees). NIST will consider comments received in response to this notice as one element of this review. If the DI does not meet the responsibilities as specified above, or if the identified scientific need or trade barrier is determined to no longer exist, NIST may revoke the designation of a DI.

Underwater Acoustics Measurements: NUWC Division Newport provides research, development, test and evaluation, engineering, analysis, and assessment, and fleet support capabilities for submarines, autonomous underwater systems, and offensive and defensive undersea weapon systems, and stewards existing and emerging technologies in support of undersea warfare. NUWC Division Newport is headquartered in Rhode Island, has detachments in West Palm Beach, Florida and Andros Island in the Bahamas, and has facilities in Seneca Lake and Fisher's Island in New York, and Dodge Pond, Connecticut.

The need for a DI for an underwater acoustics measurand was identified by the Director of NIST's Physical Measurement Laboratory as a need for

the national security of the United States. This need cannot be addressed by NIST's current activities because NIST does not possess the facilities to perform underwater acoustic measurements. The need for a DI was reviewed and approved by the NMSC and NIST's Associate Director for Laboratory Programs. Based on the foregoing, NIST designated the NUWC Division Newport as the U.S. Designated Institute for Underwater Acoustics Measurements to effectively and efficiently fulfill the need in the United States for underwater acoustic measurements to meet the needs of the national security of the United States.

Authority: 15 U.S.C. 272(b) & (c).

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2021–10394 Filed 5–17–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF DEFENSE

[Docket ID: DoD–2020–OS–0103]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 17, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Department of Defense (DoD) Voluntary Education Partnership Memorandum of Understanding (MOU); DD Form 3115; OMB Control Number 0704–XXXX.

Type of Request: New.

Number of Respondents: 2,616.

Responses per Respondent: 1.

Annual Responses: 2,616.

Average Burden per Response: 6 hours.

Annual Burden Hours: 15,696.

Needs and Uses: This information collection will help to enhance the DoD's ability to improve Service member and veteran education experiences and ensure there is applicable and relevant information, as well as streamlined-tools to aid them in selecting an education institution that best meets their respective needs. The data culled from this information collection will standardize data/information provided to Service members and veterans to help them understand the total cost of educational programs.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: May 13, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–10459 Filed 5–17–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0035]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; FOLLOW-UP SURVEYS TO THE 2020–21 NTPS: 2021–22 Teacher Follow-Up Survey (TFS) and 2021–22 Principal Follow-Up

AGENCY: Institute of Educational Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement without change of a previously approved collection.

DATES: Interested persons are invited to submit comments on or before June 17, 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 Carrie Clarady, 202–245–6347.

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: FOLLOW-UP SURVEYS TO THE 2020–21 NTPS: 2021–22 Teacher Follow-Up Survey (TFS) and 2021–22 Principal Follow-Up.

OMB Control Number: 1850–0617.

Type of Review: A reinstatement without change of a previously approved collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 25,688.

Total Estimated Number of Annual Burden Hours: 5,136.

Abstract: This request is to conduct data collection for the two follow-up surveys to the 2020–21 National Teacher and Principal Survey (NTPS)—the 2021–22 Teacher Follow-up Survey (TFS) and the 2021–22 Principal Follow-up Survey (PFS). The 2021–22 TFS is a one-year follow up of a subsample of teachers who responded to the 2020–21 NTPS, and the 2021–22 PFS is a one-year follow up of principals who responded to the 2020–21 NTPS. TFS and PFS are conducted by the National Center for Education Statistics (NCES), of the Institute of Education Sciences (IES), within the U.S. Department of Education (ED). The 2021–22 TFS and 2021–22 PFS, like earlier TFS and PFS collections, will measure the one-year attrition rates of teachers and principals, respectively, who leave the profession and will permit comparisons of stayers, movers, and leavers to fulfill the legislative mandate for NCES to report on the ''condition of education in the United States.'' ''Stayers'' are teachers or principals who remain in the same school between the NTPS year of data collection and the follow-up year. ''Movers'' are teachers or principals who stay in the profession but change schools between the NTPS year and the follow-up year. ''Leavers'' are NTPS respondents who leave the teaching or principal profession between the NTPS year and the follow-up year. The 2021–22 TFS analysis file will include TFS data in addition to data collected in the 2020–21 NTPS on teacher characteristics, qualifications, perceptions of the school environment and the teaching profession, and a host of other topics. Prior TFS data have played an important role in improving the understanding of teacher supply and demand and the conditions that affect the balance between the two. NTPS and TFS provide national data on turnover in the teacher workforce, including rates of entry and attrition from teaching, sources and characteristics of newly hired teachers, and characteristics and destinations of Leavers. These data help shift the debate from the issue of teacher quantity to teacher quality; that is, from a focus on teacher shortages measured in terms of the numbers of teaching positions left vacant to the qualifications of teachers who are hired and retained to fill teaching positions. The cross-sectional repeated design of TFS allows the analysis of trends related to these topics. The 2021–22 PFS analysis file will include PFS data in addition to data on principal characteristics, qualifications, and perceptions of the school environment from data collected in the 2020–21 NTPS. Together, NTPS and PFS will provide national data on turnover in the principal workforce, including rates of entry and attrition from principalship, sources and characteristics of newly hired principals, characteristics and destinations of leavers, and thanks to the cross-sectional repeated design of PFS, analyses of trends related to these topics. This clearance request is to conduct both 2021–22 NTPS follow-up surveys (TFS and PFS), including all recruitment and data collection activities. This request seeks authorization for 2021–22 TFS and 2021–22 PFS under the TFS single OMB number (OMB# 1850–0617).

Dated: May 13, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–10430 Filed 5–17–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB).

DATES: Comments regarding this proposed information collection must be received on or before July 19, 2021. If you anticipate any difficulty in submitting comments within that period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

ADDRESSES: Written comments may be sent to Yohanna Freeman, PRA Officer, Office of the Chief Information Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–1615, or by email at *DOEPRA@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Yohanna Freeman, PRA Officer, Office of the Chief Information Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–1615, or by email at *DOEPRA@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This Information Collection Request Contains

(1) *OMB No.:* 1910–5160;

(2) *Information Collection Request Titled:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery;

(3) *Type of Review:* Extension;

(4) *Purpose:* The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections

will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management;

(5) *Annual Estimated Number of Respondents:* 10,000;

(6) *Annual Estimated Number of Total Responses:* 10,000;

(7) *Annual Estimated Number of Burden Hours:* 200,000;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

Statutory Authority: Executive Order (E.O.) 13571, Streamlining Service Delivery and Improving Customer Service.

Signing Authority

This document of the Department of Energy was signed on April 7, 2021, by Emery Csulak, Acting Chief Information Officer, pursuant to delegated authority from the Acting Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 13, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–10411 Filed 5–17–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1879–000]

Farmington Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Farmington Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 1, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: May 12, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10418 Filed 5–17–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–93–000.

Applicants: Pavant Solar II LLC, PSEG Power Ventures LLC, Quattro Solar, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Pavant Solar II LLC, et al.

Filed Date: 5/11/21.

Accession Number: 20210511–5159.

Comments Due: 5 p.m. ET 6/1/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–141–000.

Applicants: Farmington Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Farmington Solar, LLC.

Filed Date: 5/11/21.

Accession Number: 20210511–5122.

Comments Due: 5 p.m. ET 6/1/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2412–007.

Applicants: Luning Energy Holdings LLC.

Description: Triennial Market Power Analysis for Northwest Region of Luning Energy, LLC.

Filed Date: 5/11/21.

Accession Number: 20210511–5160.

Comments Due: 5 p.m. ET 7/12/21.

Docket Numbers: ER21–1620–001.

Applicants: Arizona Solar One LLC.

Description: Compliance filing: Arizona Solar Supplemental MBR Tariff Filing to be effective 4/6/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5064.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1621–001.

Applicants: Mojave Solar LLC.

Description: Compliance filing: Mojave Solar Supplemental MBR Tariff Filing to be effective 4/6/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5065.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1876–000.

Applicants: Ingenco Wholesale Power, L.L.C.

Description: Request for Waiver, et al. of Ingenco Wholesale Power, L.L.C.

Filed Date: 5/7/21.

Accession Number: 20210507–5235.

Comments Due: 5 p.m. ET 5/28/21.

Docket Numbers: ER21–1884–000.

Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

Description: § 205(d) Rate Filing: 2021–05–12_SA 2766 ATC-City of Elkhorn 1st Rev CFA to be effective 6/15/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5028.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1885–000.

Applicants: Southern California Edison Company.

Description: Tariff Cancellation: Notice of Termination of SA Nos. 423–424 Irvine Ranch Water District to be effective 5/24/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5106.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1886–000.

Applicants: Luminant Commercial Asset Management LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5130.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1887–000.

Applicants: Dicks Creek Power Company LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5134.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1888–000.

Applicants: Hanging Rock Power Company LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5136.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1889–000.

Applicants: Kendall Power Company LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5137.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1890–000.

Applicants: Miami Fort Power Company LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5140.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1891–000.

Applicants: Washington Power Generation LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5141.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1892–000.

Applicants: Zimmer Power Company LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5143.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1893–000.

Applicants: Fayette Power Company LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5144.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1894–000.

Applicants: Bellingham Power Generation LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5145.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1895–000.

Applicants: Blackstone Power Generation LLC.

Description: § 205(d) Rate Filing: Notices of Succession and Revisions to Tariffs to be effective 4/16/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5148.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1896–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–05–12_Att X Contingent Facilities Study Requirements Filing to be effective 7/12/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5196.

Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: ER21–1897–000.

Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ComEd submits POI Transmission Upgrade Agreement, SA No. 1404 to be effective 5/12/2021.

Filed Date: 5/12/21.

Accession Number: 20210512–5200.

Comments Due: 5 p.m. ET 6/2/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 12, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10419 Filed 5–17–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1880–000]

Niyol Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Niyol Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 1, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://*

www.ferc.gov. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: May 12, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10416 Filed 5–17–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C.552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: May 20, 2021, 10:00 a.m.

PLACE: Open to the public via video Webcast. Join FERC online to view live at *http://ferc.capitolconnection.org/.*

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at *https://elibrary.ferc.gov/eLibrary/search* using the eLibrary link.

1079TH MEETING—OPEN MEETING

[May 20, 2021, 10:00 a.m.]

Item No.	Docket No.	Company
	Administrative	
A–1	AD21–1–000	Agency Administrative Matters.
A–2	AD21–2–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Market Update.
	Electric	
E–1	ER13–1508–001	Entergy Arkansas, Inc.
	ER13–1509–001	Entergy Gulf States Louisiana, L.L.C.
	ER13–1510–001	Entergy Louisiana, LLC.
	ER13–1511–001	Entergy Mississippi, Inc.
	ER13–1512–001	Entergy New Orleans, Inc.
	ER13–1513–001	Entergy Texas, Inc.
E–2	EL00–95–291	San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange.
	EL00–98–263	Investigation of Practices of the California Independent System Operator and the California Power Exchange.
E–3	EL00–95–310	San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
E–4	EL00–95–301	San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange.
	EL00–98–273	Investigation of Practices of the California Independent System Operator and the California Power Exchange.
E–5	EL02–71–057	State of California, ex rel. Bill Lockyer, Attorney General of the State of California v. British Columbia Power Exchange Corporation, Coral Power, LLC, Dynegy Power Marketing, Inc., Enron Power Marketing, Inc., Mirant Americas Energy Marketing, LP, Reliant Energy Services, Inc., Williams Energy Marketing & Trading Company, All Other Public Utility Sellers of Energy and Ancillary Services to the California Energy Resources Scheduling Division of the California Department of Water Resources, and All Other Public Utility Sellers of Energy and Ancillary Services into Markets Operated by the California Power Exchange and California Independent System Operator.
E–6	ER17–1433–001	PJM Interconnection, L.L.C.
	EL20–41–000	XO Energy LLC, XO Energy MA, LP and XO Energy MA2, LP v. PJM Interconnection, L.L.C.

1079TH MEETING—OPEN MEETING—Continued

[May 20, 2021, 10:00 a.m.]

Item No.	Docket No.	Company
E–7	IN18–9–000	GreenHat Energy, LLC, et al.
E–8	RM05–5–029, RM05–5–030	Standards for Business Practices and Communication Protocols for Public Utilities.
E–9	ER21–834–001	Midcontinent Independent System Operator, Inc.
E–10	ER21–836–001	Midcontinent Independent System Operator, Inc.
E–11	ER21–837–001	Midcontinent Independent System Operator, Inc.
E–12	ER21–410–001	Tri–State Generation and Transmission Association, Inc.
E–13	ER21–1206–000	Keota Solar, LLC.
E–14	ER19–2722–003	PJM Interconnection, L.L.C.
E–15	ER15–1429–015	Versant Power
E–16	ER20–2148–002	Lexington Chenoa Wind Farm LLC.
E–17	ER21–712–000	New England Hydro-Transmission Electric Company, Inc., New England Hydro-Transmission Corporation, New England Electric Transmission Corporation, Vermont Electric Transmission Company, and IRH Management Committee.
	Gas	
G–1	RM18–11–002	Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate..
	RP18–415–002	American Forest & Paper Association.
G–2	RP21–625–000	Venture Global Calcasieu Pass, LLC.
G–3	OR21–4–000	Navigator Borger Express LLC.
	Hydro	
H–1	P–10809–051, P–10810–057, P–2785–103.	Boyce Hydro Power, LLC.
H–2	P–15035–000	Premium Energy Holdings, LLC.
H–3	P–2299–087, P–14581–004	Turlock Irrigation District and Modesto Irrigation District.
H–4	P–9100–040	Riverdale Power & Electric Co., Inc.
	Certificates	
C–1	CP17–458–007	Midship Pipeline Company, LLC.
C–2	CP20–503–000	Northern Natural Gas Company.
C–3	CP20–486–000	Tuscarora Gas Transmission Company.
C–4	CP17–101–003	Transcontinental Gas Pipe Line Company, LLC.
C–5	CP17–40–000, CP17–40–001, CP17–40–002, CP17–40–003, CP17–40–004, CP17–40–005.	Spire STL Pipeline LLC.

Dated: May 13, 2021.

Kimberly D. Bose,

Secretary.

The public is invited to view the meeting live at *http://ferc.capitolconnection.org/.* Anyone with internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its video webcast. The Capitol Connection provides technical support for this free webcast. It will also offer access to this event via phone bridge for a fee. If you have any questions, visit *http://ferc.capitolconnection.org/* or contact Shirley Al-Jarani at 703–993–3104.

[FR Doc. 2021–10539 Filed 5–14–21; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. P–1494–438	4–30–2021	FERC Staff.[1]
2. P–1494–438	5–4–2021	FERC Staff.[2]
3. P–1494–438	5–11–2021	FERC Staff.[3]
4. P–1494–438	5–12–2021	FERC Staff.[4]
Exempt:		
NONE.		

[1] Emailed comments dated 4/30/2021 from Jerry Mawhorter.
[2] Emailed comments dated 5/3/2021 from Lasha Wells.
[3] Emailed comments dated 5/5/2021 from Lasha Wells.
[4] Emailed comments dated 5/11/2021 from Bryer Marnin.

Dated: May 12, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10417 Filed 5–17–21; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1035; FRS 27257]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it 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 17, 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 No.: 3060–1035.

Title: Part 73, Subpart F International Broadcast Stations.

Form No.: FCC Forms 309, 310 and 311.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents/Responses: 225 respondents; 225 responses.

Estimated Time per Response: 2–720 hours.

Frequency of Response: Recordkeeping requirement; On occasion, semi-annual, weekly and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 154, 303, 307, 334, 336 and 554.

Total Annual Burden: 20,096 hours.

Annual Cost Burden: $100,415.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: The Federal Communications Commission (''Commission'') is requesting that the Office of Management and Budget (OMB) approve a three-year extension of the information collection titled ''Part 73, Subpart F International Broadcast Stations'' under OMB Control No. 3060–1035. This information collection is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. The Commission collects this information pursuant to 47 CFR part 73, subpart F. If the Commission did not collect this information, it would not be in a position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. Therefore, the information collection requirements are as follows:

FCC Form 309—Application for Authority to Construct or Make Changes in an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station—The FCC Form 309 is filed on occasion when the applicant is requesting authority to construct or make modifications to the international broadcast station.

FCC Form 310—Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License—The FCC Form 310 is filed on occasion when the applicant is submitting an application for a new international broadcast station.

FCC Form 311—Application for Renewal of an International or Experimental Broadcast Station License—The FCC Form 311 is filed by applicants who are requesting renewal of their international broadcast station licenses.

47 CFR 73.702(a) states that six months prior to the start of each season, licensees and permittees shall by informal written request, submitted to the Commission in triplicate, indicate for the season the frequency or frequencies desired for transmission to each zone or area of reception specified in the license or permit, the specific hours during which it desires to transmit to such zones or areas on each frequency, and the power, antenna gain, and antenna bearing it desires to use. Requests will be honored to the extent that interference and propagation conditions permit and that they are otherwise in accordance with the provisions of section 47 CFR 73.702(a).

47 CFR 73.702(b) states that two months before the start of each season, the licensee or permittee must inform the Commission in writing as to whether it plans to operate in accordance with the Commission's authorization or operate in another manner.

47 CFR 73.702(c) permits entities to file requests for changes to their original request for assignment and use of frequencies if they are able to show good cause. Because international broadcasters are assigned frequencies on a seasonal basis, as opposed to the full term of their eight-year license authorization, requests for changes need to be filed by entities on occasion.

47 CFR 73.702 (note) states that permittees who during the process of construction wish to engage in equipment tests shall by informal written request, submitted to the Commission in triplicate not less than 30 days before they desire to begin such testing, indicate the frequencies they desire to use for testing and the hours they desire to use those frequencies.

47 CFR 73.702(e) states within 14 days after the end of each season, each licensee or permittee must file a report with the Commission stating whether the licensee or permittee has operated the number of frequency hours authorized by the seasonal schedule to each of the zones or areas of reception specified in the schedule.

47 CFR 73.782 requires that licensees retain logs of international broadcast stations for two years. If it involves communications incident to a disaster, logs should be retained as long as required by the Commission.

47 CFR 73.759(d) states that the licensee or permittee must keep records of the time and results of each auxiliary transmitter test performed at least weekly.

47 CFR 73.762(b) requires that licensees notify the Commission in writing of any limitation or discontinuance of operation of not more than 10 days.

47 CFR 73.762(c) states that the licensee or permittee must request and receive specific authority from the Commission to discontinue operations for more than 10 days under extenuating circumstances.

47 CFR 1.1301–1.1319 cover certifications of compliance with the National Environmental Policy Act and how the public will be protected from radio frequency radiation hazards.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–10413 Filed 5–17–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 26344]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission

ACTION: Notice of a new system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to add a new system of records, FCC/WCB–5, Robocall Mitigation Database to its inventory of records systems subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the Agency. The FCC requires voice service providers to certify that they have implemented the Secure Telephone Identity Revisited and Signature-based Handling of Asserted Information Using toKENs (STIR/SHAKEN) caller ID authentication framework and/or a robocall mitigation program. These certifications will be uploaded to the Robocall Mitigation Database and include the personally identifiable information (PII) of individual representatives of the service providers, such as contact information. Once service providers submit their certifications to the FCC, the certifications will then be made available for download via a public website to ensure transparency and accountability for implementing robocall mitigation programs.

DATES: This system of records will become effective on May 18, 2021. Written comments on the routine uses are due by June 17, 2021. The routine

uses will become effective on June 17, 2021, unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Margaret Drake, at *privacy@fcc.gov,* or at Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554 at (202) 418–1707.

FOR FURTHER INFORMATION CONTACT: Margaret Drake, (202) 418–1707, or *privacy@fcc.gov* (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the modifications to this system of records).

SYSTEM NAME AND NUMBER:

FCC/WCB–5, ROBOCALL MITIGATION DATABASE.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION(S):

Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

SYSTEM MANAGER(S):

The FCC's Wireline Competition Bureau.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 227b(b)(5)(C).

PURPOSES:

The FCC uses this system to ensure compliance with FCC rules requiring implementation of the STIR/SHAKEN caller ID authentication framework and/or a robocall mitigation program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual representatives of voice service providers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contact information, such as name, phone numbers, emails, and addresses, as well as work title and department.

RECORD SOURCE CATEGORIES:

Information in this system is provided by individual representatives of voice service providers who are certifying the service providers' implementation of the STIR/SHAKEN caller ID authentication framework and/or a robocall mitigation program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. Public Access—Information from service providers' certifications, including the representative's contact information, will be posted to the Robocall Mitigation Database, a publicly accessible website. The certifications themselves will also be available for download on the site.

2. Service Providers—To other voice service providers to further ensure transparency concerning implementation of STIR/SHAKEN caller ID authentication framework and/or a robocall mitigation program, and to allow intermediate and terminating voice service providers to confirm they are only accepting traffic directly from originating voice service providers in the database.

3. Adjudication and Litigation—To the Department of Justice (DOJ), or to administrative or adjudicative bodies before which the FCC is authorized to appear, when: (a) The FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC have agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.

4. Law Enforcement and Investigation—To appropriate Federal, State, local, or tribal agencies, authorities, and officials responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law, regulation, or order.

5. Congressional Inquiries—To a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the written request of that individual.

6. Government-wide Program Management and Oversight—To the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act; or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

7. Breach Notification—To appropriate agencies, entities, and persons when: (a) The Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

8. Assistance to Federal Agencies and Entities—To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

9. Non-Federal Personnel—To disclose information to non-federal personnel, including contractors, who have been engaged to assist the FCC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

REPORTING TO A CONSUMER REPORTING AGENCIES:

In addition to the routine uses cited above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

This an electronic system of records that is maintained within the FCC's network accreditation boundaries.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in this system can be retrieved by various identifiers, such as name, title, department, address, phone number, and email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL:

The National Archives and Records Administration (NARA) has not established a records schedule for the information in the Robocall Mitigation Database system of records. Consequently, until NARA has approved a records schedule, USAC will maintain all information in the Robocall Mitigation Database system of records will be maintained in accordance with NARA records management directives.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored within FCC accreditation boundaries and maintained in a database housed in the FCC's computer network databases. Access to the electronic files is restricted to authorized Commission employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other FCC employees and contractors may be granted access on a need-to-know basis. The FCC's electronic files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing *privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HISTORY:

This is a new system of records.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–10408 Filed 5–17–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2021–09]

Filing Dates for the Florida Special Elections in the 20th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Florida has scheduled special elections on November 2, 2021, and January 11, 2022, to fill the U.S. House of Representatives seat in the 20th Congressional District held by the late Representative Alcee Hastings. Committees required to file reports in connection with the Special Primary Election on November 2, 2021, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on January 11, 2022, shall file a 12-day Pre-Primary, a 12-day Pre-General, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Florida Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on October 21, 2021; a 12-day Pre-General Report on December 30, 2021; and a 30-day Post-General Report on February 10, 2022. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Florida Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Florida Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information for the Florida special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $19,300 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR FLORIDA SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Campaign Committees Involved in *Only* the Special Primary (11/02/2021) Must File:			
October Quarterly		—WAIVED—	
Pre-Primary	10/13/2021	10/18/2021	10/21/2021
Year-End	12/31/2021	01/31/2022	01/31/2022

CALENDAR OF REPORTING DATES FOR FLORIDA SPECIAL ELECTIONS—Continued

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
PACs and Party Committees not Filing Monthly Involved in *Only* the Special Primary (11/02/2021) Must File:			
Pre-Primary	10/13/2021	10/18/2021	10/21/2021
Year-End	12/31/2021	01/31/2022	01/31/2022
Campaign Committees Involved in Both the Special Primary (11/02/2021) and Special General (01/11/2022) Must File:			
October Quarterly	.....	—WAIVED—	
Pre-Primary	10/13/2021	10/18/2021	10/21/2021
Pre-General	12/22/2021	12/27/2021	12/30/2021
Post-General	01/31/2022	02/10/2022	02/10/2022
Year-End	.....	—WAIVED—	
PACs and Party Committees not Filing Monthly Involved in Both the Special Primary (11/02/2021) and the Special General (01/11/2022) Must File:			
Pre-Primary	10/13/2021	10/18/2021	10/21/2021
Pre-General	12/22/2021	12/27/2021	12/30/2021
Post-General	01/31/2022	02/10/2022	02/10/2022
Year-End	.....	—WAIVED—	
Campaign Committees Involved in *Only* the Special General (01/11/2022) Must File:			
October Quarterly	09/30/2021	10/15/2021	10/15/2021
Pre-General	12/22/2021	12/27/2021	12/30/2021
Post-General	01/31/2022	02/10/2022	02/10/2022
Year-End	.....	—WAIVED—	
PACs and Party Committees not Filing Monthly Involved in *Only* the Special General (01/11/2022) Must File:			
Pre-General	12/22/2021	12/27/2021	12/30/2021
Post-General	01/31/2022	02/10/2022	02/10/2022
Year-End	.....	—WAIVED—	

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

Dated: May 13, 2021.

On behalf of the Commission,

Shana M. Broussard,

Chair, Federal Election Commission.

[FR Doc. 2021–10458 Filed 5–17–21; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 1, 2021.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Michael J. Bukstein, M.D., William H. Craigmiles, and Paul L. Richards, each individually and as co-trustees of the George Riedel Foundation, Donald M. Bastian, Hallie M. Bastian, James H. Bastian, the Alvin E. Ehrhardt Trust, Alvin E. Ehrhardt, individually and as trustee, Heather Ehrhardt, Scott Ehrhardt, Phillip L. Smith, Gordon V. Spilker, and Carl C. Watson, all of Hannibal, Missouri;* as a group acting in concert, to acquire voting shares of Farmers & Merchants Bancorp, Inc., and thereby indirectly acquire voting shares F&M Bank and Trust Company, both of Hannibal, Missouri.

Board of Governors of the Federal Reserve System, May 12, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–10361 Filed 5–17–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 17, 2021.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Linkbancorp, Inc., Camp Hill, Pennsylvania;* to acquire GNB Financial Services, Inc., and thereby indirectly acquire The Gratz Bank, both of Gratz, Pennsylvania.

Board of Governors of the Federal Reserve System, May 12, 2021.

Ann Misback,

Secretary of the Board.

[FR Doc. 2021–10362 Filed 5–17–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 2, 2021.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Daniel J. Heike and Heidi R. Weber, both of Mondovi, Wisconsin; Sarah E. Robertson, Eau Claire, Wisconsin; and the Frederick Arthur Roberston III Living Trust, Frederick A. Robertson III, as trustee, both of Madison, Wisconsin;* to become members of the Heike Family Control Group, a group acting in concert, to retain voting shares of Gebsco, Inc., and thereby indirectly retain voting shares of Alliance Bank, both of Mondovi, Wisconsin.

A. Federal Reserve Bank of Cleveland (Mary S. Johnson, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org*:

1. *Raymond B. Coors, Jr. and Dianne D. Coors, both of Naples, Florida; Martha B. Coors, Loveland, Ohio; Melissa Hoffman, Maineville, Ohio; the Raymond B. Coors, Jr. Non-GST Trust and Raymond B. Coors, Jr. GST Trust, the Martha B. Coors Non-GST Trust and Martha B. Coors GST Trust, the Melissa Hoffman Trust, the Lisa A. Coors Trust, the John A. Coors Trust, the Mary Ann Coors Trust, and the Janet Cottingham Trust, all of Naples, Florida, with Raymond B. Coors, Jr., and Martha B. Coors as co-trustees;* all as members of the Coors Family group, a group acting in concert, to retain voting shares of The North Side Bank and Trust Company, Cincinnati, Ohio.

Board of Governors of the Federal Reserve System, May 12, 2021.

Ann Misback,

Secretary of the Board.

[FR Doc. 2021–10363 Filed 5–17–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Rescission of the Requirement for Airlines To Collect Designated Information for Passengers Destined for the United States Who Are Departing From, or Were Otherwise Present in the Republic of Guinea

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the rescission of the Agency Order that was signed on March 2, 2021 and became effective on March 4, 2021 requiring the collection of certain passenger contact information (full name, address while in the United States, primary contact phone number, secondary or emergency contact phone number, and email address) of passengers who are departing from, or were otherwise present in, the Republic of Guinea. This contact information was necessary to facilitate timely public health follow-up.

DATES: This rescission goes into effect beginning 12:01 a.m. Eastern Daylight Time on May 14, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Buigut, Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H16–4, Atlanta, GA 30329. Email: *dgmqpolicyoffice@cdc.gov.* Phone: 770–488–4552.

SUPPLEMENTARY INFORMATION: In February 2021, outbreaks of Ebola virus disease (Ebola) were identified in the

Republic of Guinea (Guinea) and the Democratic Republic of the Congo (DRC). CDC issued an Order on March 2, 2021 requiring airlines to collect and transmit to CDC contact information for passengers who were in Guinea or DRC within the 21 days before their arrival or attempted arrival in the United States. This Order became effective on March 4, 2021. (86 FR 12685, March 4, 2021).

On April 29, 2021, as there were no new cases reported in the prior 42 days, no remaining hospitalized patients with Ebola, and no contacts of confirmed Ebola cases still requiring monitoring in the DRC, CDC rescinded all requirements of the March 2, 2021 Order pertaining to DRC; however, the requirements pertaining to Guinea remained in effect.

Since April 3, 2021, there have been no new confirmed Ebola cases reported in Guinea and all contacts of cases that were being monitored have passed the 21-day incubation period. CDC has determined that airline travelers destined for the United States who are departing from, or were otherwise present in, Guinea in the past 21 days are no longer at risk of exposure to Ebola virus. Therefore, the March 2, 2021 Order is rescinded in its entirety as of 12:01 a.m. Daylight Saving Time May 14, 2021.

Authority: This Notice is issued pursuant to Sections 361 and 365 of the Public Health Service Act, 42 U.S.C. 264 and 268, and implementing regulations at 42 CFR 71.4, 71.20, 71.31, and 71.32.

Dated: May 13, 2021.

Rochelle Walensky,

Director, Centers for Disease Control and Prevention.

[FR Doc. 2021–10478 Filed 5–13–21; 4:15 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–185, CMS–10166, CMS–10178, CMS–10184, CMS–10417 and CMS–372(S)]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by July 19, 2021.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: CMS–P–0015A, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–185—Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and CLIA Exemption Under State Laboratory

CMS–10166—Fee-for-Service Improper Payment Rate Measurement in Medicaid and the Children's Health Insurance Program

CMS–10178—Medicaid and Children's Health Insurance (CHIP) Managed Care Payments and Related Information

CMS–10184—Payment Error Rate Measurement—State Medicaid and CHIP Eligibility

CMS–10417—Medicare Fee-for-Service Prepayment Review of Medical Records

CMS–372(S)—Annual Report on Home and Community Based Services Waivers and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of currently approved collection; *Title of Information Collection:* Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and CLIA Exemption Under State Laboratory Programs; *Use:* The information required is necessary to determine whether a private accreditation organization/State licensure program standards and accreditation/licensure process is at least equal to or more stringent than those of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). If an accreditation organization is approved, the laboratories that it accredits are ''deemed'' to meet the

CLIA requirements based on this accreditation. Similarly, if a State licensure program is determined to have requirements that are equal to or more stringent than those of CLIA, its laboratories are considered to be exempt from CLIA certification and requirements. The information collected will be used by HHS to: Determine comparability/equivalency of the accreditation organization standards and policies or State licensure program standards and policies to those of the CLIA program; to ensure the continued comparability/equivalency of the standards; and to fulfill certain statutory reporting requirements. *Form Number:* CMS–R–185 (OMB control number: 0938–0686); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 9; *Total Annual Responses:* 9; *Total Annual Hours:* 5,464. (For policy questions regarding this collection contact Arlene Lopez at 410–786–6782.)

2. *Type of Information Collection Request:* Reinstatement without change of a currently approved collection; *Title of Information Collection:* Fee-for-Service Improper Payment Rate Measurement in Medicaid and the Children's Health Insurance Program; *Use:* The information collected from the selected States will be used by Federal contractors to conduct Medicaid and CHIP FFS data processing and medical record reviews on which State-specific improper payment rates will be calculated. The quarterly FFS claims and payments will provide the contractor with the actual claims to be sampled. The systems manuals, provider policies, and other supporting documentation will be used by the federal contractor when conducting the FFS data processing and medical record reviews. Further, the FFS claims and payments sampled for data processing and medical record reviews will serve as the basis for the eligibility reviews. Individuals for whom the state made the FFS claim or payments will have their underlying eligibility reviewed.

In addition to the Federal Review Contractor conducting a data processing and medical record review of the FFS claims and payments, the FFS sample selected from the state-submitted universe will also be leveraged to support the PERM eligibility reviews. The Federal Eligibility Review Contractor will review the underlying eligibility of individuals whose FFS claims and payments were sampled as part of the PERM FFS sample. *Form Number:* CMS–10166 (OMB control number: 0938–0974); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 17; *Total Annual Responses:* 34; *Total Annual Hours:* 56,100. (For policy questions regarding this collection contact Daniel Weimer at 410–786–5240.)

3. *Type of Information Collection Request:* Reinstatement without change of a currently approved collection; *Title of Information Collection:* Medicaid and Children's Health Insurance (CHIP) Managed Care Payments and Related Information; *Use:* The information collected from the selected States will be used by Federal contractors to conduct Medicaid and CHIP managed care data processing reviews on which State-specific improper payment rates will be calculated. The quarterly capitation payments will provide the contractor with the actual claims to be sampled. The managed care contracts, rate schedules, and updates to both, will be used by the federal contractor when conducting the managed care claims reviews. Further, the managed care capitation payments sampled for data processing reviews will serve as the basis for the eligibility reviews. Individuals for whom the state made the managed care capitation will have their underlying eligibility reviewed.

Section 2(b)(1) of IPERA clarified that, when meeting IPIA and IPERA requirements, agencies must produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the OMB. IPERIA further clarified requirements for agency reporting on actions to reduce improper payments and recover improper payments. The collection of information is necessary for CMS to produce national improper payment rates for Medicaid and CHIP as required by Public Law 107–300. *Form Number:* CMS–10178 (OMB control number: 0938–0994); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 17; *Total Annual Responses:* 34; *Total Annual Hours:* 19,550. (For policy questions regarding this collection contact Daniel Weimer at 410–786–5240.)

4. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Payment Error Rate Measurement—State Medicaid and CHIP Eligibility; *Use:* The Payment Error Rate Measurement (PERM) program was developed to implement the requirements of the Improper Payments Information Act (IPIA) of 2002 (Pub. L. 107–300), which requires the head of federal agencies to annually review all programs and activities that it administers to determine and identify any programs that are susceptible to significant erroneous payments. If programs are found to be susceptible to significant improper payments, then the agency must estimate the annual amount of erroneous payments, report those estimates to the Congress, and submit a report on actions the agency is taking to reduce improper payments. IPIA was amended by Improper Payments Elimination and Recovery Act of 2010 (IPERA) (Pub. L. 111–204), the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA) (Pub. L. 112–248), and the Payment Integrity Information Act of 2019 (PIIA) (Pub. L. 116–117).

The eligibility case documentation collected from the States, through submission of hard copy case files and through access to state eligibility systems, will be used by CMS and its federal contractors to conduct eligibility case reviews on individuals who had claims paid on their behalf in order to determine the improper payment rate associated with Medicaid and CHIP eligibility to comply with the IPIA of 2002. Prior to the July 2017 Final Rule being published in response to the Affordable Care Act, states provided CMS only with information about their sampling and review process as well as the final review findings, which CMS has used in each PERM cycle to calculate IPIA-compliant state and federal improper payment rate for Medicaid and CHIP. Given changes brought forth in the July 2017 Final Rule, states will no longer be required to develop eligibility-specific universes, conduct case reviews, and report findings to CMS. A federal contractor will utilize the claims (fee-for-service and managed care universes) to identify a sample of individuals and will be responsible for conducting case reviews to support the PERM measurement. *Form Number:* CMS–10184 (OMB control number: 0938–1012); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 17; *Total Annual Responses:* 34; *Total Annual Hours:* 25,500. (For policy questions regarding this collection contact Daniel Weimer at 410–786–5240.)

5. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Fee-for-Service Prepayment Review of Medical Records; *Use:* The Medical Review program is designed to prevent improper payments in the Medicare FFS program. Whenever possible, Medicare Administrative Contractors (MACs) are

encouraged to automate this process; however, it may require the evaluation of medical records and related documents to determine whether Medicare claims are billed in compliance with coverage, coding, payment, and billing policies. Addressing improper payments in the Medicare fee-for-service (FFS) program and promoting compliance with Medicare coverage and coding rules is a top priority for the CMS. Preventing Medicare improper payments requires the active involvement of every component of CMS and effective coordination with its partners including various Medicare contractors and providers. The information required under this collection is requested by Medicare contractors to determine proper payment, or if there is a suspicion of fraud. Medicare contractors request the information from providers/suppliers submitting claims for payment when data analysis indicates aberrant billing patterns or other information which may present a vulnerability to the Medicare program. *Form Number:* CMS–10417; *Frequency:* Occasionally; *Affected Public:* Private Sector, State, Business, and Not-for Profits; *Number of Respondents:* 485,632; *Number of Responses:* 485,632; *Total Annual Hours:* 242,816. (For questions regarding this collection, contact Christine Grose at (410–786–1362).

6. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Annual Report on Home and Community Based Services Waivers and Supporting Regulations; *Use:* We use this report to compare actual data to the approved waiver estimates. In conjunction with the waiver compliance review reports, the information provided will be compared to that in the Medicaid Statistical Information System (MSIS) (CMS–R–284; OMB control number: 0938–0345) report and FFP claimed on a state's Quarterly Expenditure Report (CMS–64; OMB control number: 0938–1265), to determine whether to continue the state's home and community-based services waiver. States' estimates of cost and utilization for renewal purposes are based upon the data compiled in the CMS–372(S) reports. *Form Number:* CMS–372(S) (OMB control number: 0938–0272); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 48; *Total Annual Responses:* 253; *Total Annual Hours:* 11,132. (For policy questions regarding this collection contact Ralph Lollar at 410–786–0777.)

Dated: May 13, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–10453 Filed 5–17–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

120 Day Proposed Information Collection: Tribal Investment in Commercial Electronic Health Records

AGENCY: Indian Health Service, HHS.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) takes this opportunity to provide information on a new Office of Management and Budget (OMB) information collection, Control Number 0917–XXXX, titled, ''Tribal Investment in Commercial Electronic Health Records.'' This proposed information collection project has been granted an emergent review by OMB. The purpose of this notice is to provide the public a notice of the information sent directly to OMB.

A copy of the supporting statement is available at *www.regulations.gov* (see Docket ID IHS_FRDOC_0001).

DATES: September 15, 2021. Any comments regarding this information collection are best assured of having full effect if received within 120 days of the date of this publication.

Direct Your Comments to OMB: Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact IHS by one of the following methods:

- *Mail:* Mitchell Thornbrugh, Director, Office of Information Technology, Indian Health Service, DHHS, 5600 Fishers Lane, Rockville, MD 20857.
- *Phone:* (240) 620–3117.
- *Email: mitchell.thornbrugh@ihs.gov.*

SUPPLEMENTARY INFORMATION: The IHS has requested emergency review of this information collection by OMB, as authorized by section 3507(j) of the Paperwork Reduction Act of 1995. The Agency gathers comments concerning: (a) The necessity of this information collection 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 (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

Title of Proposal: Tribal Investment in Commercial Electronic Health Records.

Type of Information Collection Request: EMERGENCY REQUEST.

OMB Control Number: To be assigned.

Need and Use of Information Collection: In the Explanatory Statement accompanying the 2021 Consolidation Appropriation Act, Congress directed IHS ''*to report back within 120 days of enactment of this Act with a list of Tribes that currently maintain their own non-RPMS electronic health record systems along with cost estimates required for those Tribes to implement, maintain, and make any necessary upgrades to these systems.*'' Because the IHS does not routinely collect or maintain this information, the Agency needs to issue a data call to Tribes and Urban Indian Organizations in order to prepare the required report to the requesting Committees.

Status of the Proposed Information Collection: New request.

Form(s): Spreadsheet (or form).

Agency Form Numbers: None.

Members of Affected Public: Tribes and Urban Indian Organizations.

The table below provides: Type of data collection instrument, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hour(s).

Data collection instrument	Type of respondents	Number of responses per respondent	Total annual response	Burden per response (hours)	Estimated burden hours
Spreadsheet (1 page)	Tribes & Urban Indian Orgs	1	N/A	1	1
Total (est.)		40		40	40

There are no direct costs to respondents to report.

Elizabeth Fowler,

Acting Director, Indian Health Service.

[FR Doc. 2021–10409 Filed 5–17–21; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; NICHD Program Project Grants for HIV Research (P01).

Date: July 22–23, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NICHD Offices, 6710B Rockledge Drive, Bethesda, MD 20892 (Video-Assisted Meeting).

Contact Person: Luis E. Dettin, Ph.D., M.S., M.A., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Rm. 2131B, Bethesda, MD 20892, (301) 827–8231, *luis_dettin@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: May 13, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10428 Filed 5–17–21; 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: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: June 15–16, 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: Srikanth Ranganathan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7802, Bethesda, MD 20892, (301) 435–1787, *srikanth.ranganathan@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training in Veterinary and Comparative Medicine.

Date: June 15, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 903–B, Bethesda, MD 20892, (301) 402–8254, *john.laity@nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Injury, Repair, and Remodeling Study Section.

Date: June 17–18, 2021.

Time: 8:00 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: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, (240) 498–7546, *diramig@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Clinical Integrative Cardiovascular and Hematological Sciences Study Section.

Date: June 17–18, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301) 435–1743, *margaret.chandler@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Therapeutic Development and Preclinical Studies.

Date: June 17–18, 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: Richard D. Schneiderman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, Bethesda, MD 20817, (301) 402–3995, *richard.schneiderman@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Synapses, Cytoskeleton and Trafficking Study Section.

Date: June 17–18, 2021.

Time: 9:30 a.m. to 8:00 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: Christine A. Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, (301) 435–0657, *christine.piggee@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Drug; Discovery for the Nervous System Study Section.

Date: June 17–18, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurotransporters, Receptors, and Calcium Signaling Study Section.

Date: June 18, 2021.

Time: 9:00 a.m. to 8:00 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: Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel RFA–RM–21–008 Cellular Senescence Network: Tissue Mapping Centers (U54).

Date: June 21–22, 2021.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, (301) 435–1022, *balasundaramd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery Involving the Nervous System.

Date: June 22–23, 2021.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lai Yee Leung, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011D, Bethesda, MD 20892, (301) 435–1042, *leungl2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Antiviral Therapeutics.

Date: June 22–23, 2021.

Time: 9:30 a.m. to 8:00 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: Bidyottam Mittra, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 804–P Bethesda, MD 20894, (301) 435–4057, *bidyottam.mittra@nih.gov.*

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Innate Immunity and Inflammation Study Section.

Date: June 23–25, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812 Bethesda, MD 20892, (301) 594–6375, *mcintyrt@csr.nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Immunity and Host Defense Study Section.

Date: June 24–25, 2021.

Time: 9:00 a.m. to 8:00 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: Scott Jakes, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, (301) 435–1506, *jakesse@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 13, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10446 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review; Group Diabetes, Endocrinology and Metabolic Diseases B Study Section DDK–B Subcommittee.

Date: June 22–24, 2021.

Time: 10:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Charlene J. Repique Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7347, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *charlene.repique@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 13, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10422 Filed 5–17–21; 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: Vascular and Hematology Integrated Review Group; Atherosclerosis and Vascular Inflammation Study Section.

Date: June 10–11, 2021.

Time: 9:00 a.m. to 8:00 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: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, (301) 435–1206, *komissar@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular, Molecular and Integrative Reproduction.

Date: June 15, 2021.

Time: 10:00 a.m. to 12:00 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: Elaine Sierra-Rivera, MS, BS, Ph.D., IRG Chief, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, 301 435–2514, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Muscle Tissue Engineering.

Date: June 15, 2021.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, (301) 435–1850, *limc4@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular, Molecular and Integrative Reproduction Study Section.

Date: June 15–16, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anthony Wing Sang Chan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 809K, Bethesda, MD 20892, (301) 496–9392, *chana2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Understanding Alzheimer's Disease.

Date: June 16, 2021.

Time: 10:00 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: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Macromolecular Structure and Function D Study Section (MSFD).

Date: June 16, 2021.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: James W. Mack, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Genetics B.

Date: June 16, 2021.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–357–9112, *smirnove@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neuroscience, Cognition and Perception.

Date: June 16–18, 2021.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Cibu P. Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011–H, Bethesda, MD 20894, (301) 402–4341, *thomascp@mail.nih.gov.*

Name of Committee: Center for Scientific Review, Special Emphasis Panel; Learning, Memory and Decision Neuroscience.

Date: June 17, 2021.

Time: 9:00 a.m. to 8:00 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: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Behavioral Neuroscience.

Date: June 17–18, 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: Mei Qin, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–875–2215, *qinmei@csr.nih.gov.*

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Emerging Imaging Technologies in Neuroscience Study Section.

Date: June 17–18, 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: Sharon S. Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7846, Bethesda, MD 20892, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroplasticity and Neurotransmitters Study Section.

Date: June 17–18, 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: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Learning, Memory, Language, Communication, and Related Neuroscience.

Date: June 21–22, 2021.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jyothi Arikkath, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5215, Bethesda, MD 20892, (301) 435–1042, *arikkathj2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Arthritis, Connective Tissue and Skin Sciences.

Date: June 22, 2021.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review,

National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, (301) 435–1850, *limc4@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: June 23–24, 2021.

Time: 9:00 a.m. to 8:00 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: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biology and Immunology of Bacteria and Other Pathogens.

Date: June 23, 2021.

Time: 10:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov.*

(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: May 15, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10427 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Development, Commercialization, and Use of Protein-Based Vaccines Expressing Recombinant Measles and Mumps Immunogens for Human Use To Prevent Measles and/or Mumps Infections, Disease, and Transmission

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this Notice to Mevox, Ltd., located in Rugby, United Kingdom.

DATES: Only written comments and/or applications for a license which are received by the National Institute of Allergy and Infectious Diseases' Technology Transfer and Intellectual Property Office on or before June 2, 2021 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Daniel Lee, J.D., Technology Transfer and Patent Specialist, National Institute of Allergy and Infectious Diseases Technology Transfer and Intellectual Property Office by email (*daniel.lee5@nih.gov*) or phone (301–761–6327).

SUPPLEMENTARY INFORMATION:

Intellectual Property

E–153–2019: Mumps and Measles Virus Immunogens and Their Use

1. United States Provisional Patent Application No. 62/946,902, filed 11 December 2019 (HHS Reference No. E–153–2019–0–US–01); and

2. International Patent Application No. PCT/US2020/064619, filed 11 December 2020 (HHS Reference No. E–153–2019–0–PCT–01).

The patent and patent application rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the fields of use may be limited to the following: Development, commercialization, and use of protein-based vaccines expressing recombinant measles and mumps immunogens for human use to prevent measles and/or mumps infections, disease, and transmission.

This technology discloses the pre-fusion-stabilized recombinant MeV F glycoprotein trimers and MuV F glycoprotein trimers, as well as MuV prefusion F–HN chimeras for use as vaccines.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published Notice, the National Institute of Allergy and Infectious Diseases receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent commercialization license. In response to this notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available. License applications submitted in response to this notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 12, 2021.

Surekha Vathyam,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2021–10469 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of PAR 18–078 Investigational New Drug (IND)-Enabling Development of Medications to Treat Alcohol Use Disorder and Alcohol-Related Disorders (U44—Clinical Trial Optional).

Date: June 4, 2021.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 2114, Bethesda, MD 20892, (301) 451–2067, *srinivar@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Review Study Section Member Conflict Review.

Date: June 11, 2021.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, MSC 6902, Bethesda, MD 20817, (301) 443–0800, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: May 13, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10414 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Societal and Ethical Issues in Research.

Date: June 11, 2021.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alyssa Todaro Brooks, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 1000F, Bethesda, MD 20892, *brooksaly@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–20–017: Harnessing Data Science for Health Discovery and Innovation in Africa—Ethical, Legal and Social Implications Research.

Date: June 11, 2021.

Time: 2:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Allyssa Todaro Brooks, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 1000F, Bethesda, MD 20892, *brooksaly@mail.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics B Study Section.

Date: June 16–17, 2021.

Time: 9:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: June 17–18, 2021.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1781, *liuyh@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: June 17–18, 2021.

Time: 10:00 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: Maria Nurminskaya, Ph.D. Scientific Review Officer, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Room 4199, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov*.

Name of Committee: Biology of Development and Aging Integrated Review Group; Radiation Therapeutics and Biology Study Section.

Date: June 21–22, 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: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Immunopathology and Immunotherapy Study Section.

Date: June 21–22, 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: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.

Date: June 21–22, 2021.

Time: 9:30 a.m. to 8:00 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: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.

Date: June 21–22, 2021.

Time: 10:00 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: Rebecca C. Burgess, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–480–8034, *rebecca.burgess@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: June 23, 2021.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard G. Kostriken, Ph.D., AB, BA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cellular and Molecular Biology of Complex Brain Disorders.

Date: June 23–24, 2021.

Time: 10:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Adem Can, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, (301) 435–1042 *cana2@csr.nih.gov*.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.

Date: June 24–25, 2021.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cancer, Heart, and Sleep Epidemiology B Study Section.

Date: June 24–25, 2021.

Time: 9:00 a.m. to 8:00 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: Gianina Ramona Dumitrescu, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4193–C, Bethesda, MD 28092, 301–827–0696, *dumitrescurg@csr.nih.gov*.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Vaccines Against Microbial Diseases Study Section.

Date: June 24–25, 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: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Infectious, Foodborne, and Waterborne Disease Diagnostics and Methods in Microbial Sterilization and Disinfection.

Date: June 24–25, 2021.

Time: 9:00 a.m. to 8:00 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: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Neurodegeneration Study Section.

Date: June 24–25, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301–435–1203, *laurent.taupenot@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: May 13, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10455 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Clinical Pharmacology Quality Assurance (CPQA) Program.

Date: June 10, 2021.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G54, Rockville, MD 20892, (Virtual Meeting).

Contact Person: Vishakha Sharma, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G54, Rockville, MD 20852, 301–761–7036, *vishakha.sharma@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: May 12, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10371 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Technologies/Innovations for Improving Minority Health and Eliminating Health Disparities (R41–44—Clinical Trial Optional).

Date: June 28–29, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Ave., Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Xinli Nan, M.D., Ph.D., Scientific Review Officer, Division of Scientific Programs, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–594–7784, *Xinli.Nan@nih.gov.*

Dated: May 13, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10426 Filed 5–17–21; 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: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Pathologies Study Section.

Date: June 14–15, 2021.

Time: 10:00 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: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Acute Neural Injury and Epilepsy Study Section.

Date: June 16–17, 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: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20892, 301–760–8207, *schauweckerpe@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function D Study Section.

Date: June 16–17, 2021.

Time: 9:00 a.m. to 8:00 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: Ian Frederick Thorpe, Ph.D., Scientific Review, Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 903–K, Bethesda, MD 20892, (301) 480–8662, *ian.thorpe@nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section.

Date: June 17–18, 2021.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.

Date: June 17–18, 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: Inese Z. Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.

Date: June 17–18, 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: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–827–7238, *zhaow@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.

Date: June 17, 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: Thomas Y. Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710-B, Bethesda, MD 20892 301–402–4179 *thomas.cho@nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Molecular Neurogenetics Study Section.

Date: June 17–18, 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: Mary G. Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–915–6301, *marygs@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

Date: June 17–18, 2021.

Time: 9:00 a.m. to 8:00 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: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pathophysiology of Obesity and Metabolic Disease Study Section.

Date: June 22–23, 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: Raul Rojas, Phd., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, Bethesda, MD 20892, (301)451–6319, *rojasr@mail.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: June 22–23, 2021.

Time: 9:30 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: Robert Gersch, Phd., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 800–K, Bethesda, MD 20817, (301) 867–5309 *robert.gersch@nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Integrative Myocardial Physiology/Pathophysiology B Study Section.

Date: June 23–25, 2021.

Time: 9:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Ahlgren, Phd., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@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: May 13, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10425 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: June 14, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Tara Capece, Ph.D., MPH, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41, Rockville, MD 20852, 240–191–4281, *capecet2@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10454 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery for Aging, Neuropsychiatric and Neurologic Disorders.

Date: June 22–23, 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: Aurea D. De Sousa, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5186, Bethesda, MD 20892, (301) 827–6829, *aurea.desousa@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–21–007: Pilot Projects Enhancing Utility and Usage of Common Fund Data Sets (R03 Clinical Trial Not Allowed).

Date: June 22, 2021.

Time: 10:00 a.m. to 8:00 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: Inna Gorshkova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 801–L, Bethesda, MD 20892, (301) 435–1784, *gorshkoi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Clinical Neurophysiology, Devices, Neuroprosthetics, and Biosensors.

Date: June 24–25, 2021.

Time: 8:30 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: Cristina Backman, Ph.D., Scientific Review Officer, ETTN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7846, Bethesda, MD 20892, (301) 480–9069, *cbackman@mail.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Organization and Delivery of Health Services Study Section.

Date: June 24–25, 2021.

Time: 9:00 a.m. to 8:00 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: Catherine Hadeler Maulsby, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, 1010, Bethesda, MD 20892, (301) 435–1266, *maulsbych@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Services: Quality and Effectiveness Study Section.

Date: June 24–25, 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: Jacinta Bronte-Tinkew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 806–0009, *Jacinta.bronte-tinkew@nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

Date: June 24–25, 2021.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, Bethesda, MD 20892, (301) 827–4417, *jianxinh@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Emerging Imaging Technologies and Applications Study Section.

Date: June 24–25, 2021.

Time: 9:00 a.m. to 8:00 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: Songtao Liu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, Bethesda, MD 20817, (301) 827–6828, *songtao.liu@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Motivated Behavior Study Section.

Date: June 24–25, 2021.

Time: 9:00 a.m. to 8:00 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: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, 1010–E, Bethesda, MD 20892, *turchij@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.

Date: June 24–25, 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: Joseph G. Rudolph, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, (301) 408–9098, *josephru@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Aging and Development, Auditory Vision and Low Vision Technologies.

Date: June 24–25, 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: Barbara Susanne Mallon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, 1011–J, Bethesda, MD 20892, (301) 435–1042, *mallonb@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Health Informatics.

Date: June 24, 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: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC, 7808 Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; Developmental Therapeutics Study Section.

Date: June 24–25, 2021.

Time: 9:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nicholas J. Donato, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040, Bethesda, MD 20892, (301) 827–4810, *nick.donato@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology, and Bioengineering.

Date: June 24–25, 2021.

Time: 9:30 a.m. to 8:00 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: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC, 7804 Bethesda, MD 20892, (301) 435–1047, *kkrishna@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypersensitivity, Allergies and Mucosal Immunology.

Date: June 24–25, 2021.

Time: 9:30 a.m. to 8:00 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: Michelle Marie Arnold, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, 809–J, Bethesda, MD 20892, (301) 435–1199, *michelle.arnold@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.

Date: June 24–25, 2021.

Time: 9:30 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: Vilen A. Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, (301) 402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–TW–21–003 Fogarty Global Injury and Trauma Research Training Program.

Date: June 24, 2021.

Time: 9:30 a.m. to 8:00 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: Jan Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106 Bethesda, MD 20892, (301) 402.9607, *Jan.Li@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroscience of Interoception and Chemosensation Study Section.

Date: June 24, 2021.

Time: 10:00 a.m. to 8:00 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypersensitivity, Allergies and Mucosal Immunology 2 (HAMI 2).

Date: June 24, 2021.

Time: 11:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David C. Chang, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, 3030 Bethesda, MD 20892, (301) 451–0290, *changdac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844,

93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 13, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10456 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS Member Conflict Special Emphasis Panel.

Date: June 18, 2021.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yasuko Furumoto, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, (301) 827–7835, *yasuko.furumoto@nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Mechanistic Ancillary Studies Review Meeting.

Date: June 29, 2021.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yasuko Furumoto, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, (301) 827–7835, *yasuko.furumoto@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10447 Filed 5–17–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0057]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Certificate of Citizenship

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS), invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 19, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0057 in the body of the letter, the agency name and Docket ID USCIS–2006–0023. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0023. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0023 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–600 collects information from applicants who are requesting a Certificate of Citizenship because they acquired United States citizenship either by birth abroad to a U.S. citizen parent(s), adoption by a U.S. citizen parent(s), or after meeting eligibility requirements including the naturalization of a foreign born parent. Form N–600 can also be filed by a parent or legal guardian on behalf of a minor child. The form standardizes requests for the benefit and ensures that basic information required to assess eligibility is provided by applicants.

USCIS uses the information collected on Form N–600 to determine if a Certificate of Citizenship can be issued to the applicant. Citizenship acquisition laws have changed over time and different laws apply to determine whether the applicant automatically became a U.S. citizen depending on the dates of relevant events, such as the child's date of birth.

USCIS may request that applicants who reside within the United States attend an appointment at a USCIS Application Support Center to have a photograph taken. USCIS may also require applicants to submit additional biometrics under 8 CFR 103.2(b)(9).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–600 (paper-filed) is 27,500 and the estimated hour burden per response is 1.5 hours; the estimated total number of respondents for the information collection N–600 (online filing) is 27,500 and the estimated hour burden per response is 0.75 hours; the estimated total number of respondents for the information collection biometrics submission is 36,500 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 104,580 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $7,081,250.

Dated: May 13, 2021.

Jerry L. Rigdon,

Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–10431 Filed 5–17–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX21EB00A181100; OMB Control Number 1028–0085/Renewal]

Agency Information Collection Activities; National Land Remote Sensing Education, Outreach and Research Activity

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 19, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov*. Please reference OMB Control Number 1028–0085 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Sarah Cook by email at *scook@usgs.gov,* or by telephone at 703–648–6136.

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) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use 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 National Land Remote Sensing Education, Outreach and Research Activity (NLRSEORA) is an effort to develop a U.S. national consortium to build the capability to receive, process, and archive remotely sensed data for the purpose of providing access to university and state organizations in a ready-to-use format; and to expand the science of remote sensing through education, research/applications development, and outreach in areas such as environmental monitoring to include the effects of climate variability on water availability and phenology, natural resource management, and disaster analysis. Respondents submit proposals to acquire funding for a national (U.S.) program to promote the uses of space-based land remote sensing data and technologies through education and outreach at the state and local level and through university-based and collaborative research projects. The information collected will ensure that sufficient and relevant information is available to evaluate and select a proposal for funding. A panel of USGS Core Science Systems Mission Area managers and scientists will review each proposal to evaluate the technical merit, requirements, and priorities identified.

This notice concerns the collection of information that is sufficient and

relevant to evaluate and select proposals for funding. We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked. We intend to release the project abstracts and primary investigators for awarded/funded projects only.

Title of Collection: National Land Remote Sensing Education, Outreach and Research Activity (NLRSEORA).

OMB Control Number: 1028–0085.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Public or private institutions of higher education including universities; State and local governments (including county, city township or special district governments), independent school districts, Native American Tribal governments or organizations, nonprofit organizations (with or without 501(c)(3) status).

Total Estimated Number of Annual Respondents: Approximately 5 respondents.

Total Estimated Number of Annual Responses: Approximately 5 responses or applications.

Estimated Completion Time per Response: We expect to receive approximately 5 applications per year, taking each applicant approximately 24 hours to complete, totaling 120 burden hours. We anticipate awarding one (1) grant per year. The grantee will be required to submit an interim Annual progress report to the designated USGS Project Officer within 90 days of the end of the project period and a final report on or before 90 working days after the expiration of the agreement.

Total Estimated Number of Annual Burden Hours: 120 hours per year.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: There are no ''non-hour-cost'' burdens associated with this IC.

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*).

Timothy Newman,

Program Coordinator, National Land Imaging Program, U.S. Geological Survey.

[FR Doc. 2021–10471 Filed 5–17–21; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL03000 L58480000.EU0000 241 XXX; MO#4500144123]

Notice of Realty Action: Modified Competitive Sale of Two Parcels of Public Land in Lincoln County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer two parcels of public land totaling 80 acres in Lincoln County, Nevada, by modified competitive sale at not less than each parcel's appraised Fair Market Value (FMV) pursuant to the Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA). The sale will be subject to the applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA). The BLM has completed an Environmental Assessment (EA) for the sale.

DATES: Submit written comments regarding the sale until July 2, 2021. The modified competitive sale is to occur by an online auction hosted by EnergyNet, the BLM's service provider.

The online sale will take place on July 21, 2021, at 8:00 a.m., Pacific Time, at EnergyNet website at *https://www.EnergyNet.com/govt_listing.pl.* In advance of the sale and no later than 30 days prior to the sale, a sales matrix providing the FMV for each sale parcel will be published on the following website: *https://www.EnergyNet.com/govt_listing.pl.* Parcels may be viewed online at the EnergyNet website approximately 10 business days after the posting of this Notice of Realty Action in the **Federal Register**.

ADDRESSES: Mail written comments to the BLM Caliente Field Office (CFO), P.O. Box 237 (1400 South Front St.), Caliente, NV 89008–0237.

FOR FURTHER INFORMATION CONTACT: Nicole Cummings by email: *ncummings@blm.gov,* or by telephone: 775–289–1809. For general information on previous BLM public land sales go to: *https://blm.gov/lccrda.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: In accordance with the LCCRDA, 85 percent of the funds generated by this sale will be used for archaeological resources, natural resource protection, recreation and wilderness planning, and other opportunities in Lincoln County. Additionally, five percent of the revenue would go to the State of Nevada General Education Fund and 10 percent of the revenue would go to Lincoln County.

In order to determine the FMV through appraisal, the Department of the Interior may have made certain extraordinary assumptions and hypothetical conditions concerning the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government.

It is the buyer's responsibility to be aware of all applicable federal, state, and local government laws, regulations and policies that may affect the subject lands, including any required dedication of lands for public uses. It is the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It is the responsibility of the purchaser to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should make themselves aware of any federal or state law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such and acquiring future access will be the responsibility of the buyer.

Both parcels of public lands that BLM proposes to offer are in Lincoln County; one is located near the town of Panaca and the other one is located near the community of Rachel.

The subject public lands are legally described as:

Mount Diablo Meridian, Nevada

N–94767, 40 Acres

T. 2 S., R. 67 E.,
Sec. 23, NE¼NE¼.

N–94728, 40 Acres

T. 4 S., R. 55 E.,
Sec. 2, SE¼NE¼.

The areas described aggregate 80 acres, according to the official plats of the surveys of said lands on file with the BLM.

The sale will be held online at https: *https://www.EnergyNet.com/govt_listing.pl.*

The BLM will publish this Notice of Realty Action once a week for three consecutive weeks in the *Lincoln County Record* newspaper. Prior to the sale, a sales matrix will be published on the following website: *https://www.EnergyNet.com/govt_listing.pl.* The sales matrix provides information specific to each sale parcel such as legal description, physical location, encumbrances, acreage, and FMV. The FMV for each parcel will be available in the sales matrix no later than 30 days prior to the sale.

Information concerning the sale parcels, including encumbrances of record, appraisals, reservations, procedures and conditions, Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), and other environmental documents that may appear in the BLM public files for the sale parcels. These BLM public files are available for review by appointment only, during business hours, from 8:00 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, at the BLM CFO, except during Federal holidays.

This sale is in conformance with the Ely District Record of Decision and Approved Resource Management Plan (ROD/RMP) dated August 20, 2008 (Lands and Realty objectives LR–8, page 66; and Appendix B, page B–1, respectively). A parcel-specific Environmental Assessment DOI–BLM–NV–L030–2018–0016–EA (*https://eplanning.blm.gov/eplanning-ui/project/120483/570*), Finding of No Significant Impact, and Decision Record September 12, 2019 were completed in connection with this Notice of Realty Action.

Submit comments to the address in the **ADDRESSES** section. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including any personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any comments, this realty action will become the final determination of the Department of the Interior.

The use of the modified competitive sale method is consistent with 43 CFR 2711.3–2. Public lands may be offered for sale by modified competitive bidding procedures when the authorized officer determines it is necessary based on public policies. Following Centers for Disease Control recommendations to coordinate with state and local health officials on mitigating the risk of COVID–19 transmission, the BLM has determined that utilizing an online auction would maximize the opportunity for public input and involvement while prioritizing the health and safety of BLM employees and the interested public. This approach is consistent with the State of Nevada's current COVID–19 Mitigation and Management Guidance for Safe Gatherings, which limits the size of public gatherings to 250 individuals, or 50 percent occupancy (whichever is fewer). While local guidance is subject to change over time, the BLM's requirements to provide advance public notification regarding the sale and procedures for participation, limit our ability to adapt or change with updated guidance. Therefore, the BLM will adhere to holding this sale online, as this method offers the most assurance that a sale can be conducted whether or not COVID–19 restrictions are lessened or increased.

Sale procedures and registration process:

Federal law requires that bidders must be:

(1) A citizen of the United States, 18 years of age or older;

(2) a corporation subject to the laws of any state or of the United States;

(3) a state, instrumentality, or political subdivision authorized to hold property; or

(4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State of Nevada.

The successful bidder must submit proof of citizenship or articles of incorporation within 30 days from receipt of acceptance of bid letter. Evidence of United States citizenship is a birth certificate, passport, or naturalization papers. Citizenship documents or Articles of Incorporation (as applicable) must be provided to the BLM CFO for each sale.

To participate, prospective buyers must create an EnergyNet account, complete the EnergyNet Bidding Terms Agreement, request a bidding allowance, register for the BLM Nevada LCCRDA Spring 2021 Land Sale, and obtain a bidder number. Registration for online bidding will be available prior to the sale date at EnergyNet's website (*https://www.EnergyNet.com/govt_listing.pl*). When the auction website becomes active, potential bidders may obtain information on it regarding how to submit competitive online bids via the internet for the sale by clicking on the orange ''Register for Sale'' button on the blue ''BLM Nevada LCCRDA Spring 2021 Land Sale'' banner. Additional information on how to register at EnergyNet may be found at *https://www.energynet.com/page/Government_Listings_Participation.*

Assistance creating an EnergyNet account and registering for the sale is available by telephoning the EnergyNet Government Resources department at 877–351–4488 and by using the following link to create a Buyer's Account: *https://www.EnergyNet.com/bidder_reg.pl?registration_choice=government.* After the account is created, follow the link ''Submit Bank Information Online'' and fill in the form with the following information:

- Bank Name
- Banker's Name
- Telephone Number of Banker
- Address of Bank
- Requested Bid Allowance Amount

EnergyNet will verify the Bank Name is a recognized financial institution and contact the banker to ask if the prospective buyer has the financial means to cover the requested Bid Allowance, which is the limit or ceiling for bids and is NOT recorded as a bid or offer per property at auction. Upon receiving an affirmative answer, the allowance will be granted.

Important notes regarding your Bid Allowance: Requesting a bidding allowance may require approximately five (5) business days to determine bidder's financial qualifications. For security reasons, Bidders must contact their Banker and grant permission to speak to EnergyNet about their Bid Allowance request. EnergyNet will not request the account balance or ask any questions about assets or lines of credit. EnergyNet will not request the bank account number, nor will they have the ability to withdraw funds.

The auction website is open to the public. The internet-based land sale can be observed in real-time. However, you must register as a bidder on the website, in advance, in order to submit bids for a parcel. The auction website will be active and available for use approximately 10 days after the date of this Notice and will remain available for viewing until the completion of the auction. The available parcels listed in this Notice will be detailed on the EnergyNet. Interested parties may visit the website at any time. Potential bidders may register for the online auction as soon as the auction website is active.

Potential bidders are encouraged to visit the website prior to the start of the open bidding period to become familiar with the site and review the bidding instructions available at *https://www.energynet.com/page/Government_Listings_Participation*. Supporting documentation is available on the website to familiarize new users to the process and answer frequently asked questions.

Payments to the BLM will not be made through the auction website. At the conclusion of the final parcel's bidding period, the successful bidder for each parcel will be provided instructions by the online auction system via email on how to make the required payment to the BLM. In addition, you will be required to pay a commission fee to EnergyNet of 1.5 percent (a percentage) of the highest qualifying bid for each parcel purchased by successful bidders. EnergyNet will be submitting a separate invoice via email to each successful bidder for the total amount due to the BLM and a separate invoice for the amount due to EnergyNet.

Parcels will begin online bidding at the established FMV. Each parcel will have its own unique open bidding period, with start and stop times clearly identified on the auction website. The open bidding period for each parcel will run for three hours from start to finish, and only bids placed during this three-hour period will be accepted. Each parcel will close bidding sequentially so that each bidder will know if they are the highest winning bid before subsequent parcels close. The website will display each current high bid, and the high bid bidder's number.

The online system allows participants to submit maximum bids, which is the highest amount a bidder is willing to pay for each parcel to enable a bidder to participate in the online auction without having to be logged into the website at the time the auction period closes. The auction website provides a full explanation of placing maximum bids, as well as an explanation of how they work to place bids on your behalf to maintain your high bidder status up to the chosen maximum bid amount. The BLM strongly encourages potential bidders to review the bidding tutorial, in the Frequently Asked Questions area on the auction website in advance of the sale. EnergyNet will declare the highest qualifying bid as the high bid. The successful bidder must submit a deposit of not less than 20 percent of the successful bid amount by 4:00 p.m., Pacific Time, immediately following the close of the sale in the form of a certified check, postal money order, electronic fund transfer, bank draft, or cashier's check made payable in U.S. dollars to the ''Department of the Interior, Bureau of Land Management.''

The BLM will send the successful bidder(s) an acceptance of bid letter with detailed information for full payment. In accordance with 43 CFR 2711.3–1(d), the successful bidder will forfeit the bid deposit if they fail to pay the full purchase price within 180 days of the sale. The BLM will make no exceptions. The BLM cannot accept the remainder of the bid price at any time following the 180th day after the sale.

If a bidder is the apparent successful bidder with respect to multiple parcels and that bidder fails to submit the minimum 20 percent bid deposit resulting in default on any single parcel following the sale, the BLM may cancel the sale of all parcels to that bidder. If a successful bidder cannot consummate the transaction for any reason, the BLM may consider the second highest bidder to purchase the parcel. If there are no acceptable bids, a parcel may remain available for sale on a future date without further legal notice.

The BLM CFO must receive the request for escrow instructions prior to 30 days before the prospective patentee's scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the BLM CFO by 4:30 p.m. Pacific Time, 30 days from the date on the high-bidder letter. There are no exceptions. To submit a name change, the apparent successful bidder must submit the name change in writing on the Certificate of Eligibility form to the BLM CFO.

The BLM must receive the remainder of the full bid price for the parcel no later than 4:30 p.m. Pacific Time, within 180 days following the day of the sale. The successful bidder must submit payment in the form of a certified check, postal money order, bank draft, cashier's check, or make available by electronic fund transfer payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management'' to the BLM CFO. The BLM will not accept personal or company checks.

Arrangements for electronic fund transfer to the BLM for payment of the balance due must be made a minimum of two weeks prior to the payment date. The BLM will not sign any documents related to 1031 Exchange transactions. The bidder is responsible for timing for completion of such an exchange. The BLM cannot be a party to any 1031 Exchange.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any or all offers to purchase or withdraw any parcel of land or interest therein from sale within 30 days, if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

According to the LCCRDA, Public Law 108–424 section 102(g), lands identified within the Ely Resource Management Plan are withdrawn from location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary of the Interior (Secretary) terminates the withdrawal or the lands are patented.

Upon publication of this Notice in the **Federal Register**, the described land will be segregated from all forms of appropriation under the public land laws, except for the sale provisions of the FLPMA. Upon publication of this Notice and until completion of this sale, the BLM will no longer accept land use applications affecting the parcels identified for sale. The parcels may be subject to land use applications received prior to publication of this Notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. The segregated effect of this Notice terminates upon issuance of a patent or other document of conveyance to such lands, publication in the **Federal Register** of a termination of the segregation. The total segregation period may not exceed two years unless it is extended by the BLM State Director, Nevada prior to the termination date in accordance with 43 CFR 2711.1–2(d).

Terms and Conditions: FLPMA Section 209, 43 U.S.C. 1719(a), states that ''all conveyances of title issued by the Secretary . . . shall reserve to the United States all minerals in the lands.'' Accordingly, all minerals for the sale

parcels will be reserved to the United States. The patents, when issued, will contain a mineral reservation to the United States for all minerals.

In response to requests to clarify this mineral reservation as it relates to mineral materials, such as sand and gravel, we refer interested parties to the regulations at 43 CFR 3601.71(b), which provides that the owner of the surface estate of lands with reserved Federal minerals may ''use a minimal amount of mineral materials for . . . personal use'' within the boundaries of the surface estate without a sales contract or permit. The regulation provides that all other use, absent statutory or other express authority, requires a sales contract or permit. The BLM refers interested parties to the explanation of this regulatory language in the preamble to the final rule published in the **Federal Register** in 2001, available at *https://www.federalregister.gov/d/01-29001,* which stated that minimal use ''would not include large-scale use of mineral materials, even within the boundaries of the surface estate'' (66 FR 58894). Further explanation is contained in BLM Instruction Memorandum No. 2014–085 (April 23, 2014), available on BLM's website at *https://www.blm.gov/policy/im-2014-085.*

The parcels are subject to limitations prescribed by law and regulation, and certain encumbrances in favor of third parties. Prior to patent issuance, a holder of any Right-of-way (ROW) within the sale parcels will have the opportunity to amend its ROW for conversion to a new term, including in perpetuity if applicable, or to an easement. The BLM will notify valid existing ROW holders of record of their ability to convert their compliant ROWs to perpetual ROWs or easements. In accordance with Federal regulations at 43 CFR 2807.15, once notified, each valid holder may apply for the conversion of their current authorization.

The following numbered terms and conditions will appear on the conveyance documents for the sale parcels:

1. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary are reserved to the United States, together with all necessary access and exit rights;

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

3. The parcels are subject to valid existing rights;

4. The parcels are subject to reservations for roads, public utilities, and flood control purposes, both existing and proposed, in accordance with the local governing entities' transportation plans; and

5. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupations on the leased/patented lands.

To the extent required by law, the parcel is subject to the requirements of Section 120(h) of the CERCLA, as amended. Accordingly, notice is hereby given that the lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor that any hazardous substances have been disposed of or released on the subject properties.

No warranty of any kind, express or implied, is given by the United States as to the title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of a parcel will not be on a contingency basis.

Authority: 43 CFR 2711.1–2.

Shirley Johnson,

Field Manager, Caliente Field Office.

[FR Doc. 2021–10404 Filed 5–17–21; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLHQ310000.L13100000.PP0000; OMB Control No. 1004–0162]

Agency Information Collection Activities; Onshore Geophysical Exploration

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 19, 2021.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, Attention PRA Office, 440 W 200 S #500, Salt Lake City, UT 84101; or by email to *BLM_HQ_PRA_Comments@blm.gov.* Please reference Office of Management and Budget (OMB) Control Number 1004–0162 in the subject line of your comments. Please note that due to COVID–19, the electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jennifer Spencer by email at *j35spenc@blm.gov,* or by telephone at 202–912–7146. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This information collection pertains to onshore geophysical exploration on Federal lands. Federal land-management agencies are responsible for regulating geophysical exploration on the Federal surface estate. The BLM regulates exploration for oil and gas on lands it manages, and on occasion regulates such exploration on lands managed by other Federal land-management agencies. The U.S. Forest Service (USFS) regulates exploration for various types of minerals, including oil and gas, on lands it manages. The BLM and the USFS propose to revise the accuracy and usefulness of the forms they use for this collection of information. OMB Control Number 1004–0162 is currently scheduled to expire on October 31, 2021. The BLM plans to request that OMB renew this Control Number for an additional three years.

Title of Collection: Onshore Geophysical Exploration (43 CFR part 3150 and 36 CFR parts 228 and 251).

OMB Control Number: 1004–0162.

Form Numbers: BLM Form 3150–4/FS Form 2800–16 and BLM Form 3150–5/FS Form 2800–16a.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: The respondents for this collection of information are businesses that seek to conduct geophysical exploration on Federal lands.

Total Estimated Number of Annual Respondents: 68.

Total Estimated Number of Annual Responses: 68.

Estimated Completion Time per Response: Varies from 20 minutes to 1 hour, depending on activity.

Total Estimated Number of Annual Burden Hours: 27.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: $25.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, 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.*).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2021–10462 Filed 5–17–21; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L14400000 PN0000 HQ350000 212; OMB Control No. 1004–0029]

Agency Information Collection Activities; Color-of-Title Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 19, 2021.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, Attention PRA Office, 440 W 200 S #500, Salt Lake City, UT 84101; or by email to *BLM_HQ_PRA_Comments@blm.gov.* Please reference Office of Management and Budget (OMB) Control Number 1004–0029 in the subject line of your comments. Please note that due to COVID–19, the electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Susie Greenhalgh by email at *lgreenhalgh@blm.gov,* or by telephone at 202–302–4288. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimizes the public's reporting burden. It also helps the public understand our information collection requirements and provides the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including 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 BLM collects and uses the information to determine the validity of a claim under the Color-of-Title Act. The following forms comprise an application in support of a Color-of-Title claim: (a) 2540–001, Color-of-Title Application; (b) 2540–002, Conveyances Affecting Color or Claim of Title; and (c) 2540–003, Color-of-Title Tax Levy and Payment Record. A respondent must

submit all of the forms concurrently, or the BLM will reject a claim as insufficient. This request is for OMB to renewal for this OMB control number for an additional three years.

Title of Collection: Color-of-Title Application (43 CFR Subparts 2540 and 2541).

OMB Control Number: 1004–0029.

Form Numbers: 2540–001; 2540–002, and 2540–003.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals, groups, or corporations that wish to claim title to a tract of public land on grounds that such land has been held in good faith and in peaceful, adverse possession under claim or color of title, and have placed valuable improvements on such land or some part thereof has been reduced to cultivation for an amount of time sufficient under the Color-of-Title Act, 43 U.S.C. 1068, *et seq*.

Total Estimated Number of Annual Respondents: 8.

Total Estimated Number of Annual Responses: 8.

Estimated Completion Time per Response: 3 hours.

Total Estimated Number of Annual Burden Hours: 24.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $80.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, 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*.).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2021–10461 Filed 5–17–21; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–31939; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before May 8, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by June 2, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 8, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

ALABAMA

Madison County

Edmonton Heights Historic District, 3800–3822 Colton Ln. NE, 3802–3831 Crane Dr. NE, 3802–3811 Eton Rd. NE, 3812–3818, Melody Cir. NE, 3800–3836 Melody Rd. NE, 3800–3814 Meridian St. North, 200–303, Salem Dr. NE, 202–250 Victory Ln. NE, 100–125 Whitney Ave. NE, 100–199 Wilkenson Dr. NE, Huntsville, SG100006659

DISTRICT OF COLUMBIA

District of Columbia

Southeast Branch Library, 403 7th St. SE, Washington, SG100006651

ILLINOIS

Kane County

Hobbs Building, 2–4 North River St., Aurora, SG100006645

IOWA

Dubuque County

Metz Manufacturing Company, 1690 Elm St., Dubuque, SG100006658

MARYLAND

Howard County

Guilford Quarry Pratt Through Truss Bridge, Jct. of Guilford Rd. and MD 32, Guilford vicinity, SG100006648

MICHIGAN

Marquette County

Ishpeming Main Street Historic District, Generally, Main St. between Front and Division Sts. including selected contiguous properties on Front and East and West Division Sts., Ishpeming, SG100006654

NEW HAMPSHIRE

Cheshire County

Joslin-Faulkner-Putnam House, 150 Court St., Keene, SG100006656

NEW YORK

Cattaraugus County

Kimble-Nellé House, 57 North Chapel St., Gowanda, SG100006643

OHIO

Cuyahoga County

Homestead Theatre Block, 11794–11816 Detroit Ave., Lakewood, SG100006652

Licking County

Curry Farm Historic District, 12844 Foundation Rd., Hartford, SG100006649

Pickaway County

Fleming-Hoffman Farm, 25043 OH 104, Circleville vicinity, SG100006647

Gregg-Crites Octagon House, 440 Crites Rd., Circleville, SG100006653

VERMONT

Chittenden County

Converse Hall, 75 Colchester Ave., Burlington, SG100006655

Additional documentation has been received for the following resource:

MONTANA

Silver Bow County

Butte-Anaconda Historic District (Additional Documentation), 100 East Broadway, Butte, AD66000438

Authority: Section 60.13 of 36 CFR part 60.

Dated: May 11, 2021.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2021–10373 Filed 5–17–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 212S180110; S2D2S SS08011000 SX064A000 21XS501520]

Loss of State Jurisdiction To Administer the Surface Mining Control and Reclamation Act of 1977 Within the Exterior Boundaries of the Muscogee (Creek) Nation Reservation in the State of Oklahoma

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of decision.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are notifying the public that the recent decision of the United States Supreme Court in *McGirt* v. *Oklahoma,* 140 S. Ct. 2452 (2020), which legally recognized the on-going existence of the historic Muscogee (Creek) Nation Reservation in the State of Oklahoma, necessarily forecloses the State of Oklahoma's authority to implement the Surface Mining Control and Reclamation Act of 1977 (SMCRA) on Indian Lands within the exterior boundaries of the Muscogee (Creek) Nation Reservation. SMCRA designates OSMRE as the regulatory authority over surface coal mining and reclamation operations on Indian lands where a tribe has not obtained primacy. OSMRE has thus determined that Oklahoma cannot exercise its State program regulatory authority over surface coal mining and reclamation operations within the exterior boundaries of the Muscogee (Creek) Nation Reservation. Accordingly, for lands within the exterior boundaries of the Muscogee (Creek) Nation Reservation, OSMRE is assuming jurisdiction over the SMCRA Title IV reclamation and Title V regulatory programs. The Muscogee (Creek) Nation Reservation consists of lands, wholly or partially within the following counties: Creek, Hughes, Seminole, McIntosh, Muskogee, Okfuskee, Okmulgee, Tulsa, Rogers, Mayes, and Wagoner.

DATES: As of April 2, 2021, OSMRE initiated transfer of SMCRA Title IV and Title V program responsibilities within the exterior boundaries of the Muscogee (Creek) Nation Reservation.

FOR FURTHER INFORMATION CONTACT: Alfred L. Clayborne, Regional Director, Office of Surface Mining Reclamation and Enforcement, 501 Bell St., Suite 216, Alton, IL 62002; Telephone (618) 463–6463 Ext. 5101.

SUPPLEMENTARY INFORMATION: On April 2, 2021, OSMRE sent letters to the Oklahoma Conservation Commission (OCC) and the Oklahoma Department of Mines (ODM) to initiate transfer of the SMCRA Title IV and Title V program responsibilities within the exterior boundaries of the Muscogee (Creek) Nation Reservation. Thus, beginning a coordination period that will allow for the orderly transfer of all OCC and ODM records, documents, data, and other information associated with the regulation of activities under SMCRA within the exterior boundaries of the Muscogee (Creek) Nation Reservation. During the transition period, both the OCC and ODM will, to the extent permitted by applicable law, maintain routine reclamation and regulatory program activities, including by responding to any Abandoned Mine Land (AML) emergencies within the exterior boundaries of the Muscogee (Creek) Nation Reservation. OSMRE does not consider any action with irreversible or irreparable consequences, such as the approval of permitting actions or the release of bonds or other obligations under SMCRA, to be a routine reclamation and regulatory program activity, and, during the transition period, OCC and ODM should not take any such actions with respect to lands within the boundaries of the Muscogee (Creek) Nation Reservation.

Pursuant to SMCRA, States may acquire the primary responsibility (*i.e.,* primacy) for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within the State. To obtain primacy, a State must develop a regulatory program that meets the minimum standards set forth in SMCRA and the Federal regulations, as approved by the Secretary of the Interior. SMCRA, however, does not allow for the delegation of this authority to a State to regulate surface coal mining operations on Indian lands within the State's boundaries. Unless a Tribe obtains primacy, SMCRA designates OSMRE as the sole regulatory authority over surface coal mining and reclamation operations on Indian lands. 30 U.S.C. 1300. As indicated, SMCRA defines ''Indian lands'' as: ''all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.'' 30 U.S.C. 1291(9).

Potential Implications of Substitution of Federal Authority

SMCRA established the Abandoned Mine Reclamation Fund to receive reclamation fees that, along with funds from other sources, are used to finance reclamation of abandoned coal mine sites. Title IV of SMCRA authorizes OSMRE to provide grants to eligible States and Tribes that are funded from permanent (mandatory) appropriations. Recipients use these funds: To reclaim the highest priority AML coal mine sites that were left abandoned prior to the enactment of SMCRA in 1977; to reclaim eligible non-coal sites; for projects that address the impacts of mineral development; and for eligible non-reclamation projects.

Title V of SMCRA authorizes OSMRE to provide grants to States and Tribes to develop, administer, and enforce State and Tribal regulatory programs that address, among other things, the disturbances from coal mining operations. Additionally, upon approval of a State or Tribal regulatory program, Title V authorizes a State or Tribe to assume regulatory primacy and act as the regulatory authority within the State or Tribe, and to administer and enforce its approved SMCRA regulatory program. The regulations at title 30 of the Code of Federal Regulations, Chapter VII, implement these provisions of SMCRA.

Glenda H. Owens,

Deputy Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 2021–10400 Filed 5–17–21; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0072]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Revision of a Currently Approved Collection; Explosives Employee Possessor Questionnaire—ATF Form 5400.28

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 collection OMB 1140–0072 (Explosives Employee Possessor Questionnaire—ATF Form 5400.28) is being revised to include additional questions, and a new format and layout to improve user experience. This collection 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 July 19, 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: Shawn Stevens, Federal Explosives Licensing Center either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *Shawn.Stevens@atf.gov,* or by telephone at 304–616–4400.

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*): Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Explosives Employee Possessor Questionnaire.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 5400.28.

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): Business or other for-profit.

Abstract: The Explosives Employee Possessor Questionnaire—ATF Form 5400.28 will be used to determine if an individual is qualified to serve as an employee possessor, who can ship, transport, receive, and/or possess materials for an explosives business or operation.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 10,000 respondents will use the form annually, and it will take each respondent approximately 20 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 3,334 hours, which is equal to 10,000 (# of respondents) * .3333 (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: May 13, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–10401 Filed 5–17–21; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–834]

Importer of Controlled Substances Application: Experic LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Experic LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 17, 2021. Such persons may also file a written request for a hearing on the application on or before June 17, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on February 25, 2021, Experic LLC, 2 Clark Drive, Cranbury, New Jersey 08512–3619, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Nabilone	7379	II
Sufentanil	9740	II

The company plans to import finished dosage unit forms of both Nabilone (7379) and Sufentanil (9740) for clinical trial study purposes only. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–10410 Filed 5–17–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–835]

Bulk Manufacturer of Controlled Substances Application: SPECGX LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: SPECGX LLC, has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 19, 2021. Such persons may also file a written request for a hearing on the application on or before July 19, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on February 5, 2021, SPECGX LLC, 3600 N 2nd Street, Saint Louis, Missouri 63147, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Tetrahydrocannabinols	7370	I
Codeine-N-oxide	9053	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Alphamethadol	9605	I
Betamethadol	9609	I
Norlevorphanol	9634	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Nabilone	7379	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Hydrocodone	9193	II
Levorphanol	9220	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Methadone	9250	II
Methadone intermediate	9254	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Opium tincture	9630	II
Opium, powdered	9639	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances for the internal use intermediates or for sale to its customers. In reference to dug code 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture this drug as synthetic. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–10412 Filed 5–17–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–836]

Importer of Controlled Substances Application: Lipomed

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Lipomed has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 17, 2021. Such persons may also file a written request for a hearing on the application on or before June 17, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 29, 2021, Lipomed, 150 Cambridgepark Drive, Suite 705, Cambridge, Massachusetts 02140–2300, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Ethylone	7547	I

The company plans to import the above controlled substance as analytical reference standards for distribution to its customers for research and analytical purposes. Placement of this drug code onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substance. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–10420 Filed 5–17–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–833]

Importer of Controlled Substances Application: Unither Manufacturing LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Unither Manufacturing LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 17, 2021. Such persons may also file a written request for a hearing on the application on or before June 17, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on April 16, 2021, Unither Manufacturing LLC, 331 Clay Road, Rochester, New York 14623, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II

The company plans to import the listed controlled substance solely for updated analytical testing purposes for European customer requirements. This analysis is required to allow the company to export domestically-manufactured finished dosage forms to foreign markets.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–10407 Filed 5–17–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0334]

Agency Information Collection Activities; Proposed Collection Comments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2021 Survey of Campus Law Enforcement Agencies (SCLEA)

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Justice Statistics, Office of Justice Programs, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until July 19, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on 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 Elizabeth Davis, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Elizabeth.Davis@usdoj.gov;* telephone: 202–305–2667).

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 Bureau of Justice Statistics, 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:* Reinstatement of the Survey of Campus Law Enforcement Agencies (SCLEA), with changes, a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2021 Survey of Campus Law Enforcement Agencies (SCLEA).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is CJ–42. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be campus law enforcement agencies (LEAs) serving public and private 2- and 4-year postsecondary educational institutions with a full-time enrollment of 1,000 or more students. Periodically since 1995, BJS has collected information about the personnel, policies, and practices of campus law enforcement agencies via the Survey of Campus Law Enforcement Agencies (SCLEA). This survey has been used to produce nationally representative estimates on campus law enforcement personnel, duties, administration, technology, officer selection, officer training, equipment, and jurisdiction. The survey instrument was reviewed by practitioners and subject matter experts to update it from the 2011 form and ensure it covers current topics of interest to campus law enforcement while reducing respondent burden. BJS plans to publish the information collected in a report and archive the data for public use.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 1,860 campus LEA respondents. The expected burden placed on these respondents is about 1 hour per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 1,860 total burden hours associated with this collection.

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: May 13, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–10402 Filed 5–17–21; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice [21–030]]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant a partially exclusive patent license in the United States to practice the invention described and claimed in U.S. Patent Application Serial Number 17/119,632 entitled, ''Shape Memory Alloy (SMA) Tubular Structure,'' LEW–20196–1, to SMART Tire Company, Inc. having its principal place of business in Los Angeles, CA. The fields of use may be limited to powered bicycles with two wheels; electric-powered two-wheeled bicycles with pedal assist and a maximum speed of 20 miles per hour (MPH); and electric-powered kick scooters with a maximum speed of 20 MPH.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel at the NASA Glenn Research Center Office of General Counsel, via email at *robert.earp@nasa.gov,* with cc to *amy.hiltabidel@nasa.gov.* Phone (216) 433–3663.

FOR FURTHER INFORMATION CONTACT: Robert Earp, Patent Counsel at the NASA Glenn Research Center Office of General Counsel via email at *robert.earp@nasa.gov.* Phone (216) 433–3663.

This notice of intent to grant a partially exclusive patent license is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). The patent rights in this invention has been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at http://technology.nasa.gov.

Helen Galus,

Agency Counsel for Intellectual Property.

[FR Doc. 2021–10423 Filed 5–17–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (21–027)]

Planetary Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Advisory Committee. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, June 14, 2021, 10:00 a.m. to 6:00 p.m., Eastern Time.

ADDRESSES: Virtual meeting via dial-in teleconference and WebEx only.

FOR FURTHER INFORMATION CONTACT: Ms. Karshelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be available to the public telephonically and by WebEx only. The meeting event for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=mc069d0dce973dbdb5fde4e4d54d18eab.* The event meeting number is 199 292 7638 and the password is PAC_June2021. For audio, when you join the WebEx event, you may use your computer or provide your phone number to receive a call back. Otherwise, call the U.S. toll conference number: 1–415–527–5035 and enter the access code 199 292 7638.

The agenda for the meeting includes the following topics:

—Planetary Science Division Update

—Planetary Science Division Research and Analysis Program Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2021–09872 Filed 5–17–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Thursday, May 20, 2021.

PLACE: Due to the COVID–19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.ncua.gov*) and access the provided webcast link.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Board Briefing, Share Insurance Fund Quarterly Report.
2. Request for Comment, Share Insurance Fund Normal Operating Level Policy.
3. NCUA Rules and Regulations, Derivatives.

Portions Closed to the Public

1. Supervisory Action. Closed pursuant to Exemptions (8), (9)(i)(B), and (9)(ii).

CONTACT PERSON FOR MORE INFORMATION: Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703–518–6304.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2021–10491 Filed 5–14–21; 11:15 am]

BILLING CODE 7535–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 11:00 a.m., Wednesday, May 19, 2021.

PLACE: Via Conference Call.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Special Board of Directors meeting.

Agenda

I. Call to Order
II. Discussion Item Strategic Planning Process Update and Potential Areas of Strategic Focus
III. Discussion
IV. Next Steps
V. Adjournment

Portions Open to the Public: Everything except the Executive Session.

Portions Closed to the Public: Executive Session.

CONTACT PERSON FOR MORE INFORMATION: Lakeyia Thompson, Special Assistant, (202) 524–9940; *Lthompson@nw.org.*

Lakeyia Thompson,

Special Assistant.

[FR Doc. 2021–10550 Filed 5–14–21; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331; NRC–2021–0104]

NextEra Energy Duane Arnold, LLC; Duane Arnold Energy Center

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request from the licensee that would permit NextEra Energy Duane Arnold, LLC to reduce the minimum coverage limit for onsite property damage insurance from $1.06 billion to $50 million for the Duane Arnold Energy Center.

DATES: The exemption was issued on May 11, 2021.

ADDRESSES: Please refer to Docket ID NRC–2021–0104 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0104. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *Attention:* The PDR, where you may examine and order copies of public

documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marlayna V. Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: May 12, 2021.

For the Nuclear Regulatory Commission.

Marlayna V. Doell,

Project Manager, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

Nuclear Regulatory Commission

Docket No. 50–331

NextEra Energy Duane Arnold, LLC; Duane Arnold Energy Center; Exemption

I. Background

By letter dated January 18, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML19023A196), NextEra Energy Duane Arnold, LLC (NEDA, the licensee) certified to the U.S. Nuclear Regulatory Commission (NRC, the Commission) that it planned to permanently cease power operations at the Duane Arnold Energy Enter (DAEC) in the fourth quarter of 2020. By letter dated March 2, 2020 (ADAMS Accession No. ML20062E489), NEDA updated its timeline and certified to the NRC that it planned to permanently cease power operations at DAEC on October 30, 2020. By letter dated August 27, 2020 (ADAMS Accession No. ML20240A067), NEDA certified to the NRC that power operations permanently ceased at DAEC on August 10, 2020, and in a letter dated October 12, 2020 (ADAMS Accession No. ML20286A317), that the fuel was permanently removed from the DAEC reactor vessel and placed in the spent fuel pool (SFP) as of October 12, 2020.

Based on the docketing of these certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, as specified in Title 10 of the *Code of Federal Regulations* (10 CFR) section 50.82(a)(2), the 10 CFR part 50 renewed facility operating license for DAEC (No. DPR–49) no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel. The facility is still authorized to possess and store irradiated (*i.e.,* spent) nuclear fuel. Spent fuel is currently stored onsite at the DAEC facility in the SFP and in a dry cask independent spent fuel storage installation (ISFSI).

II. Request/Action

By letter dated July 16, 2020 (ADAMS Accession No. ML20198M579), NEDA requested an exemption from 10 CFR 50.54(w)(1) concerning onsite liability insurance. The exemption from 10 CFR 50.54(w)(1) would permit the licensee to reduce the required level of onsite property damage insurance from $1.06 billion to $50 million for DAEC.

The regulation at 10 CFR 50.54(w)(1) requires each licensee to have and maintain onsite property damage insurance to stabilize and decontaminate the reactor and reactor site in the event of an accident. The onsite insurance coverage must be either $1.06 billion or whatever amount of insurance is generally available from private sources (whichever is less).

The licensee states that the risk of an incident at a permanently shutdown and defueled reactor is much less than the risk from an operating power reactor. In addition, since reactor operation is no longer authorized at DAEC, there are no events that would require the stabilization of reactor conditions after an accident. Similarly, the risk of an accident that would result in significant onsite contamination at DAEC is also much lower than the risk of such an event at operating reactors. Therefore, the licensee requested an exemption from 10 CFR 50.54(w)(1) to reduce its onsite property damage insurance from $1.06 billion to $50 million, commensurate with the reduced risk of an incident at the permanently shutdown and defueled DAEC site.

III. Discussion

Under 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) any of the special circumstances listed in 10 CFR 50.12(a)(2) are present.

The financial protection limits of 10 CFR 50.54(w)(1) were established after the Three Mile Island Nuclear Station, Unit 2 accident out of concern that licensees may be unable to financially cover onsite cleanup costs in the event of a major nuclear accident. The specified $1.06 billion coverage amount requirement was developed based on an analysis of an accident at a nuclear reactor operating at power, resulting in a large fission product release and requiring significant resource expenditures to stabilize the reactor and ultimately decontaminate and cleanup the site.

These cost estimates were developed based on the spectrum of postulated accidents for an operating nuclear reactor. Those costs were derived from the consequences of a release of radioactive material from the reactor. Although the risk of an accident at an operating reactor is very low, the consequences onsite and offsite can be significant. In an operating plant, the high temperature and pressure of the reactor coolant system (RCS), as well as the inventory of relatively short-lived radionuclides, contribute to both the risk and consequences of an accident. With the permanent cessation of reactor operations at DAEC and the permanent removal of the fuel from the reactor vessel, such accidents are no longer possible. As a result, the reactor vessel, RCS, and supporting systems no longer operate and have no function related to the storage of the irradiated fuel. Therefore, postulated accidents involving failure or malfunction of the reactor, RCS, or supporting systems are no longer applicable.

During reactor decommissioning, the largest radiological risks are associated with the storage of spent fuel onsite. In the exemption request dated July 16, 2020, the licensee discussed both design-basis and beyond design-basis events involving irradiated fuel stored in the SFP. The licensee determined that there are no possible design-basis events at DAEC that could result in an offsite radiological release exceeding the limits established by the U.S. Environmental Protection Agency's (EPA) early phase Protective Action Guides (PAGs) of 1 roentgen equivalent man (rem) at the exclusion area boundary, as a way to demonstrate that any possible radiological releases would be minimal and would not require precautionary protective actions (*e.g.,* sheltering in place or evacuation). The NRC staff evaluated the radiological consequences associated with various decommissioning activities and the design-basis accidents at DAEC, in consideration of the permanently shutdown and defueled condition. The possible design-basis accident scenarios at DAEC have greatly reduced radiological consequences. Based on its

review, the NRC staff concluded that no reasonably conceivable design-basis accident exists that could cause an offsite release greater than the EPA PAGs.

The only incident that might lead to a significant radiological release at a decommissioning reactor is a zirconium fire. The zirconium fire scenario is a postulated, but highly unlikely, beyond design-basis accident scenario that involves loss of water inventory from the SFP resulting in a significant heatup of the spent fuel, and culminating in substantial zirconium cladding oxidation and fuel damage. The probability of a zirconium fire scenario is related to the decay heat of the irradiated fuel stored in the SFP. Therefore, the risks from a zirconium fire scenario continue to decrease as a function of the time since DAEC has been permanently shut down.

The Commission has previously authorized a lesser amount of onsite financial protection, based on this analysis of the zirconium fire risk. In SECY–96–256, ''Changes to Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' dated December 17, 1996 (ADAMS Accession No. ML15062A483), the NRC staff recommended changes to the power reactor financial protection regulations that would allow licensees to lower onsite insurance levels to $50 million upon demonstration that the fuel stored in the SFP can be air-cooled. In its Staff Requirements Memorandum to SECY–96–256, dated January 28, 1997 (ADAMS Accession No. ML15062A454), the Commission supported the NRC staff's recommendation that, among other things, would allow permanently shutdown power reactor licensees to reduce commercial onsite property damage insurance coverage to $50 million when the licensee was able to demonstrate the technical criterion that the spent fuel could be air-cooled if the SFP was drained of water.

The NRC staff has used this technical criterion to grant similar exemptions to other decommissioning reactors (*e.g.,* Maine Yankee Atomic Power Station, published in the **Federal Register** on January 19, 1999 (64 FR 2920); Zion Nuclear Power Station, published in the **Federal Register** on December 28, 1999 (64 FR 72700); Kewaunee Power Station, published in the **Federal Register** on March 24, 2015 (80 FR 15638); Crystal River Unit 3 Nuclear Generation Plant, published in the **Federal Register** on May 6, 2015 (80 FR 26100); Oyster Creek Nuclear Generating Station, published in the **Federal Register** on December 28, 2018 (83 FR 67365); Pilgrim Nuclear Power Station, published in the **Federal Register** on January 14, 2020 (85 FR 2153); and Three Mile Island Nuclear Station, Unit 1, published in the **Federal Register** on March 26, 2021 (86 FR 16241)). These prior exemptions were based on these licensees demonstrating that the SFP could be air-cooled, consistent with the technical criterion discussed above.

In its July 16, 2020, request, the licensee compared the DAEC fuel storage parameters with those used in NRC generic evaluations of fuel cooling included in NUREG/CR–6451, ''A Safety and Regulatory Assessment of Generic BWR [Boiling-Water Reactor] and PWR [Pressurized-Water Reactor] Permanently Shutdown Nuclear Power Plants,'' dated August 1997 (ADAMS Accession No. ML082260098). The analysis described in NUREG/CR–6451 determined that natural air circulation would adequately cool fuel that has decayed for 7 months after operation in a typical BWR.

In SECY–00–0145, ''Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning,'' dated June 28, 2000, and SECY–01–0100, ''Policy Issues Related to Safeguards, Insurance, and Emergency Preparedness Regulations at Decommissioning Nuclear Power Plants Storing Fuel in Spent Fuel Pools,'' dated June 4, 2001 (ADAMS Accession Nos. ML003721626 and ML011450420, respectively), the NRC staff discussed additional information concerning SFP zirconium fire risks at decommissioning reactors and associated implications for onsite property damage insurance. Providing an analysis of when the spent fuel stored in the SFP is capable of air-cooling is one measure that can be used to demonstrate that the probability of a zirconium fire is exceedingly low.

The NRC staff further evaluated the issue of zirconium fires and presented an independent evaluation of an SFP subject to a severe earthquake in NUREG–2161, ''Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a U.S. Mark l Boiling Water Reactor,'' dated September 2014 (ADAMS Accession No. ML14255A365). The specific reference plant used for this study is a General Electric (GE) Type 4 BWR with a Mark I containment. The analysis postulates a severe earthquake and evaluates the potential for the SFP to lose inventory and potentially uncover the spent fuel. This evaluation concluded that, for the representative BWR, spent fuel stored in a dispersed high-density configuration would be adequately cooled by natural circulation air flow within several months after discharge from a reactor if the pool was drained of water during a severe earthquake scenario. Specifically, the NUREG–2161 analysis identified that 107 days after shutdown, the stored fuel would have decayed sufficiently and be in a configuration that allows for air cooling of the fuel during a severe earthquake. This would prevent radiological releases without the need for additional mitigation actions; therefore, no release as a result of a zirconium cladding fire would be expected.

The NRC staff compared the DAEC facility with the reference plant in NUREG–2161 and identified that DAEC is also a GE Type 4 BWR with a Mark I containment. The staff also confirmed (see ADAMS Accession No. ML21089A207) that DAEC stores the spent fuel following a dispersed high-density loading pattern consistent with the dispersed high-density configuration assumed in NUREG–2161. Therefore, the NRC staff determined that the stored fuel in the DAEC SFP will remain in a coolable configuration following a design basis seismic event.

Based on the evaluation in SECY–96–256, as well as DAEC's conformance with the analysis in NUREG–2161, the NRC staff determined $50 million to be an adequate level of onsite property damage insurance for a decommissioning reactor once the spent fuel in the SFP is no longer susceptible to a zirconium fire. However, the NRC staff has postulated that there is still a potential for other radiological incidents at a decommissioning reactor that could result in significant onsite contamination besides a zirconium fire. In SECY–96–256, the NRC staff cited the rupture of a large contaminated liquid storage tank (~450,000 gallons) causing soil contamination and potential groundwater contamination as the most costly postulated event to decontaminate and remediate (other than an SFP zirconium fire). The postulated large liquid radiological waste storage tank rupture event was determined to have a bounding onsite cleanup cost of approximately $50 million. Therefore, the NRC staff determined that the licensee's proposal to reduce onsite insurance to a level of $50 million would be consistent with the bounding cleanup and decontamination cost, as discussed in SECY–96–256, to account for the postulated rupture of a large liquid radiological waste tank at the DAEC site, should such an event occur.

The NRC staff has determined that the licensee's proposed reduction in onsite property damage insurance coverage to

a level of $50 million is consistent with SECY–96–256 and subsequent insurance considerations resulting from additional zirconium fire risks as discussed in SECY–00–0145 and SECY–01–0100, as well as NUREG/CR–6451 and NUREG–2161. In addition, the NRC staff notes that similar exemptions have been granted to other permanently shutdown and defueled power reactors, upon demonstration that the criterion of the zirconium fire risks from the irradiated fuel stored in the SFP is of negligible concern. The NRC staff concluded that 10 months after the permanent cessation of power operations on August 10, 2020, sufficient irradiated fuel decay time will have elapsed at DAEC to decrease the probability of an onsite radiological release from a postulated zirconium fire accident to negligible levels. In addition, the licensee's proposal to reduce onsite insurance to a level of $50 million is consistent with the maximum estimated cleanup costs for the recovery from the rupture of a large liquid radwaste storage tank.

The NRC staff also notes that in accordance with Revision 1 of the DAEC Post-Shutdown Decommissioning Activities Report (PSDAR) dated February 2, 2021 (ADAMS Accession No. ML21036A160), all spent fuel will be removed from the SFP and moved into dry storage at an onsite ISFSI by April 2022, and the probability of an initiating event that would threaten SFP integrity occurring before that time is extremely low, which further supports the conclusion that the zirconium fire risk is negligible

A. The Exemption Is Authorized by Law

The requested exemption from 10 CFR 50.54(w)(1) would allow NEDA to reduce the minimum coverage limit for onsite property damage insurance. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50 when the exemptions are authorized by law.

As explained above, the NRC staff has determined that the licensee's proposed reduction in onsite property damage insurance coverage to a level of $50 million is consistent with SECY–96–256. Moreover, the NRC staff concluded that 10 months after the permanent cessation of power operations, sufficient irradiated fuel decay time will have elapsed at DAEC to decrease the probability of an onsite and offsite radiological release from a postulated zirconium fire accident to negligible levels. In addition, the licensee's proposal to reduce onsite insurance to a level of $50 million is consistent with the maximum estimated cleanup costs for the recovery from the rupture of a large liquid radiological waste storage tank.

The NRC staff has determined that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, based on its review of the licensee's exemption request as discussed above, and consistent with SECY–96–256, the NRC staff concludes that the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to the Public Health and Safety

The onsite property damage insurance requirements of 10 CFR 50.54(w)(1) were established to provide financial assurance that following a significant nuclear incident, onsite conditions could be stabilized and the site decontaminated. The requirements of 10 CFR 50.54(w)(1) and the existing level of onsite insurance coverage for DAEC are predicated on the assumption that the reactor is operating. However, DAEC permanently shut down on August 10, 2020, and permanently defueled as of October 12, 2020. The permanently shutdown and defueled status of the facility results in a significant reduction in the number and severity of potential accidents and, correspondingly, a significant reduction in the potential for and severity of onsite property damage. The proposed reduction in the amount of onsite insurance coverage does not impact the probability or consequences of potential accidents. The proposed level of insurance coverage is commensurate with the reduced consequences of potential nuclear accidents at DAEC. Therefore, the NRC staff concludes that granting the requested exemption will not present an undue risk to the health and safety of the public.

C. The Exemption Is Consistent With the Common Defense and Security

The proposed exemption would not eliminate any requirements associated with physical protection of the site and would not adversely affect the licensee's ability to physically secure the site or protect special nuclear material. Physical security measures at DAEC are not affected by the requested exemption. Therefore, the proposed exemption is consistent with the common defense and security.

D. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the regulation.

The underlying purpose of 10 CFR 50.54(w)(1) is to provide reasonable assurance that adequate funds will be available to stabilize reactor conditions and cover onsite cleanup costs associated with site decontamination following an accident that results in the release of a significant amount of radiological material. Since DAEC permanently shut down on August 10, 2020, and permanently defueled as of October 12, 2020, it is no longer possible for the radiological consequences of design-basis accidents or other credible events at DAEC to exceed the limits of the EPA PAGs at the exclusion area boundary. The licensee has evaluated the consequences of highly unlikely, beyond-design-basis conditions involving a loss of coolant from the SFP. The analyses show that 10 months after the permanent cessation of power operations on August 10, 2020, the likelihood of such an event leading to a large radiological release is negligible. The NRC staff's evaluation of the licensee's analyses confirm this conclusion.

The NRC staff also finds that the licensee's proposed $50 million level of onsite insurance is consistent with the bounding cleanup and decontamination cost as discussed in SECY–96–256, to account for the hypothetical rupture of a large liquid radiological waste tank at the DAEC site, should such an event occur. Therefore, the NRC staff concludes that the application of the current requirements in 10 CFR 50.54(w)(1) to maintain $1.06 billion in onsite insurance coverage is not necessary to achieve the underlying purpose of the rule for the permanently shutdown and defueled DAEC reactor.

Under 10 CFR 50.12(a)(2)(iii), special circumstances are present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

The NRC staff concludes that if the licensee was required to continue to maintain an onsite insurance level of $1.06 billion, the associated insurance premiums would be in excess of those necessary and commensurate with the radiological contamination risks posed by the site. In addition, such insurance levels would be significantly in excess of other decommissioning reactor facilities that have been granted similar exemptions by the NRC.

The NRC staff finds that compliance with the existing rule would result in an

undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted and are significantly in excess of those incurred by others similarly situated.

Therefore, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(iii) exist.

E. Environmental Considerations

The NRC's approval of an exemption from insurance or indemnity requirements belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of Chapter I to 10 CFR is a categorical exclusion provided that: (i) There is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve surety, insurance, or indemnity requirements.

As the Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards, I have determined that approval of the exemption request involves no significant hazards consideration, as defined in 10 CFR 50.92, because reducing the licensee's onsite property damage insurance for DAEC does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The exempted financial protection regulation is unrelated to the operation of DAEC or site activities. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted regulation is not associated with construction so there is no significant construction impact. The exempted regulation does not concern the source term (*i.e.,* potential amount of radiation in an accident) or any activities conducted at the site. Therefore, there is no significant increase in the potential for, or consequences of, a radiological accident. In addition, there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region resulting from issuance of the requested exemption. The requirement for onsite property damage insurance involves surety, insurance, and indemnity matters only.

Therefore, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present as set forth in 10 CFR 50.12.

Therefore, the Commission hereby grants NEDA an exemption from the requirements of 10 CFR 50.54(w)(1) for DAEC. DAEC permanently ceased power operations on August 10, 2020. The exemption permits DAEC to lower the minimum required onsite insurance to $50 million 10 months after permanent cessation of power operations.

The exemption is effective as of 10 months after permanent cessation of power operations at DAEC, which is June 10, 2021.

Dated: May 11, 2021.

For the Nuclear Regulatory Commission.

/RA/

Patricia K. Holahan,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–10406 Filed 5–17–21; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2021–0111]

Monthly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Monthly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular monthly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person. This monthly notice includes all amendments issued, or proposed to be issued, from April 2, 2021, to April 29, 2021. The last monthly notice was published on April 20, 2021.

DATES: Comments must be filed by June 17, 2021. A request for a hearing or petitions for leave to intervene must be filed by July 19, 2021.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0111. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5411, email: *Shirley.Rohrer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0111, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0111.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0111, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensees' analyses provided, consistent with title 10 of *the Code of Federal Regulations* (10 CFR) section 50.91, are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity to Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be

one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call to 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9:00 a.m. and 6:00 p.m.,

Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The table below provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT REQUEST(S)

Dominion Energy Nuclear Connecticut, Inc.; Millstone Power Station, Unit 3; New London County, CT	
Docket No(s)	50–423.
Application date	February 22, 2021.
ADAMS Accession No	ML21053A342.
Location in Application of NSHC	Page 11–14 of Attachment 1.
Brief Description of Amendment(s)	The proposed amendment would revise the Millstone, Unit 3, Technical Specification (TS) 3.1.3.2 to provide an alternative monitoring option for the condition where a maximum of one digital rod position indicator per bank is inoperable. Specifically, as an alternative to determining the position of the non-indicating rod(s) indirectly by the movable incore detectors at a frequency of once per 8 hours, the change would allow rod position verification to be performed based on the occurrence of rod movement or power level change. This revision would be consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–547, Revision 1, and would provide an alternate TS Actions to allow the position of the rod to be monitored by a means other than movable incore detectors. The amendment would also revise TS 3.1.3.5 to replace shutdown ''rods'' with shutdown ''banks,'' consistent with wording in the Standard TSs for Westinghouse Plants, as provided in NUREG–1431, Revision 4. Finally, the amendment would revise the title of TS 3.1.3.6 to reflect that the requirements apply to control ''banks,'' and modify TS 6.9.1.6.a and TS 6.9.1.6.b to cite the revised titles of TS 3.1.3.5 and TS 3.1.3.6.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	W.S. Blair, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	Richard Guzman, 301–415–1030.

Duke Energy Florida, LLC; Crystal River, Unit 3, Nuclear Generating Station; Citrus County, FL	
Docket No(s)	50–302.
Application date	March 17, 2021.
ADAMS Accession No	ML21076A386.
Location in Application of NSHC	Pages 11–13 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendment would revise the Crystal River Nuclear Plant, Unit 3, Independent Spent Fuel Storage Installation Only Emergency Plan (IOEP) and Emergency Action Level Bases Manual to include (1) a revision of the emergency action levels to be consistent with guidance in 10 CFR 72.32(a); (2) a revised emergency response organization; (3) incorporation of the Emergency Action Level Bases Manual into the IOEP; and (4) removal of items unnecessarily carried over from the Permanently Defueled Emergency Plan and other previous emergency plans.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Gregory Di Carlo, Vice President/General Counsel, NorthStar Group Services, Inc., 2760 South Falkenburg Rd., Riverview, FL 33578.

LICENSE AMENDMENT REQUEST(S)—Continued

NRC Project Manager, Telephone Number	Marlayna Doell, 301–415–3178.

Duke Energy Florida, LLC; Crystal River, Unit 3, Nuclear Generating Station; Citrus County, FL

Docket No(s)	50–302.
Application date	March 17, 2021.
ADAMS Accession No	ML21085A750.
Location in Application of NSHC	Enclosure 2.
Brief Description of Amendment(s)	The proposed amendment would revise Crystal River Nuclear Plant, Unit 3 (CR3), Independent Spent Fuel Storage Installation (ISFSI) Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan, as well as update (1) the existing physical security license condition in the facility operating license and (2) order responses related to additional security measures and fingerprinting for unescorted access at the CR3 ISFSI.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Gregory Di Carlo, Vice President/General Counsel, NorthStar Group Services, Inc., 2760 South Falkenburg Rd., Riverview, FL 33578.
NRC Project Manager, Telephone Number	Marlayna Doell, 301–415–3178.

Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC

Docket No(s)	50–400.
Application date	January 14, 2021.
ADAMS Accession No	ML21014A092.
Location in Application of NSHC	Pages 14–16 of Enclosure.
Brief Description of Amendment(s)	The proposed amendment would revise the license condition associated with the adoption of 10 CFR 50.69, ''Risk-informed Categorization and Treatment of Structures, Systems and Components for Nuclear Power Reactors'' to reflect an alternative approach to the one provided in Nuclear Energy Institute's (NEI) 00–04, ''10 CFR 50.69 SSC Categorization Guideline,'' Revision 0 (ADAMS Accession No. ML052910035), for evaluating the impact of seismic hazards in the 10 CFR 50.69 categorization process.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Cummings, Associate General Counsel, Mail Code DEC45, 550 South Tryon Street, Charlotte, NC 28202.
NRC Project Manager, Telephone Number	Michael Mahoney, 301–415–3867.

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA

Docket No(s)	50–382.
Application date	February 8, 2021, as supplemented by letter(s) dated April 8, 2021.
ADAMS Accession No	ML21039A648, ML21098A262.
Location in Application of NSHC	Pages 7–8 of Attachment 1.
Brief Description of Amendment(s)	The proposed amendment would modify technical specification requirements to permit the use of risk-informed completion times in accordance with Technical Specifications Task Force (TSTF) Traveler, TSTF–505, Revision 2, ''Provide Risk-Informed Extended Completion Times—RITSTF [Risk-Informed TSTF] Initiative 4b,'' dated July 2, 2018 (ADAMS Accession No. ML18183A493).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	Perry Buckberg, 301–415–1383.

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA

Docket No(s)	50–382.
Application date	September 20, 2019, as supplemented by letter(s) dated April 26, 2021.
ADAMS Accession No	ML19263F129, ML21116A143.
Location in Application of NSHC	Pages 11–12 of the Enclosure to the Application.
Brief Description of Amendment(s)	The proposed amendment would revise the Waterford Steam Electric Station, Unit 3, Technical Specifications (TSs) to remove TSs 3.1.2.1 through 3.1.2.8, ''Boration Systems,'' and references to the TSs. Boration Systems TSs for equipment required to support the safety function of the auxiliary pressurizer spray system would be relocated to TS 3/4. 4.3.2, ''Auxiliary Spray,'' and the remainder of the Boration Systems TS information would be relocated to the licensee-controlled Technical Requirements Manual. The proposed amendment was previously noticed on December 17, 2019 (84 FR 68952), and is being re-noticed to include the new TS location for equipment required to support the safety function of the auxiliary pressurizer spray system. The NSHC previously submitted in the application dated September 20, 2019, bounds this proposed revision to the application.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	Perry Buckberg, 301–415–1383.

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA

Docket No(s)	50–382.

LICENSE AMENDMENT REQUEST(S)—Continued

Application date	April 5, 2021.
ADAMS Accession No	ML21095A156.
Location in Application of NSHC	Page 9–10 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendment would revise the Waterford Steam Electric Station, Unit 3, Technical Specifications (TSs) to remove TSs 3.3.3.7.1 and 3.3.3.7.3, ''Chemical Detection Systems,'' and references to the TSs and relocate the information to the licensee-controlled Technical Requirements Manual.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	Perry Buckberg, 301–415–1383.

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Units 1 and 2; Berrien County, MI

Docket No(s)	50–315, 50–316.
Application date	March 23, 2021.
ADAMS Accession No	ML21082A496.
Location in Application of NSHC	Pages 9–10 of Enclosure 2.
Brief Description of Amendment(s)	The proposed amendment would modify Technical Specification (TS) Bases for TS 3.3.3, ''Post Accident Monitoring (PAM) Instrumentation.'' The proposed change to the TS Bases would allow one channel of TS 3.3.3, ''Post Accident Monitoring (PAM) Instrumentation,'' Function 7, Containment Water Level, to be satisfied by a train of two operable containment water level switches in the event that both containment water level channels become inoperable. This alternate method of satisfying containment water level channel requirements would be limited to the remaining duration of the operating cycle each time it is invoked.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Robert B. Haemer, Senior Nuclear Counsel, Indiana Michigan Power Company, One Cook Place, Bridgman, MI 49106.
NRC Project Manager, Telephone Number	Scott Wall, 301–415–2855.

Nine Mile Point Nuclear Station, LLC and Exelon Generation Company, LLC; Nine Mile Point Nuclear Station, Unit 1; Oswego County, NY

Docket No(s)	50–220.
Application date	December 18, 2020.
ADAMS Accession No	ML20353A401.
Location in Application of NSHC	Pages 3–5 of Attachment 1.
Brief Description of Amendment(s)	The proposed changes would revise the Nine Mile Point, Unit 1, technical specifications related to reactor pressure vessel (RPV) water inventory control (WIC) based on Technical Specifications Task Force (TSTF) Traveler TSTF–582, Revision 0, ''RPV WIC Enhancements'' (TSTF–582) (ADAMS Accession No. ML19240A260), and the associated NRC staff safety evaluation for TSTF–582 (ADAMS Accession No. ML20219A333).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Exelon Generation Company, LLC, 101 Constitution Ave. NW, Suite 400, Washington, DC 20001.
NRC Project Manager, Telephone Number	Michael L. Marshall, Jr., 301–415–2871.

Pacific Gas and Electric Company; Diablo Canyon Power Plant, Units 1 and 2; San Luis Obispo County, CA

Docket No(s)	50–275, 50–323.
Application date	December 3, 2020, as supplemented by letter(s) dated April 1, 2021.
ADAMS Accession No	ML20338A546, ML21091A069.
Location in Application of NSHC	Pages 10–12 of the Enclosure to the Supplement.
Brief Description of Amendment(s)	The amendments would revise the licenses and technical specifications to reflect the permanent cessation of reactor operation for Diablo Canyon Nuclear Power Plant, Units 1 and 2. The amendments would apply when the plants are permanently shutdown and defueled.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jennifer Post, Esq., Pacific Gas and Electric Co., 77 Beale Street, Room 3065, Mail Code B30A, San Francisco, CA 94105.
NRC Project Manager, Telephone Number	Samson Lee, 301–415–3168.

STP Nuclear Operating Company; South Texas Project, Units 1 and 2; Matagorda County, TX

Docket No(s)	50–498, 50–499.
Application date	March 11, 2021.
ADAMS Accession No	ML21070A429.
Location in Application of NSHC	Pages 4–5 of the Enclosure.
Brief Description of Amendment(s)	The amendments would revise the technical specifications (TSs) by adding a note to Limiting Condition for Operation 3.6.3 allowing for penetration flow paths to be unisolated intermittently under administrative controls. The amendments would also remove the Index from the TSs and place them under licensee control.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Kym Harshaw, Vice President and General Counsel, STP Nuclear Operating Company, P.O. Box 289, Wadsworth, TX 77483.

LICENSE AMENDMENT REQUEST(S)—Continued

NRC Project Manager, Telephone Number	Dennis Galvin, 301–415–6256.

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL

Docket No(s)	50–259, 50–260, 50–296.
Application date	March 5, 2021.
ADAMS Accession No	ML21064A508.
Location in Application of NSHC	Pages 9–11 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would revise the technical specifications (TS) related to reactor pressure vessel (RPV) water inventory control (WIC) based on Technical Specifications Task Force (TSTF) Traveler TSTF–582, Revision 0, ''RPV WIC Enhancements'' (TSTF–582) (ADAMS Accession No. ML19240A260), and the associated NRC safety evaluation for TSTF–582 (ADAMS Accession No. ML20219A333).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Michael Wentzel, 301–415–6459.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 1; Rhea County, TN

Docket No(s)	50–390.
Application date	March 3, 2021.
ADAMS Accession No	ML21062A267.
Location in Application of NSHC	Pages E8–E9 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendment would add a one-time exception to the existing Note in the Limiting Condition for Operation for Watts Bar, Unit 1 Technical Specification (TS) 3.7.12, ''Auxiliary Building Gas Treatment System (ABGTS),'' to allow the auxiliary building secondary containment enclosure boundary to be opened, at specific controlled access points, on a continuous basis during the Watts Bar, Unit 2, Cycle 4 refueling outage when the Unit 2 replacement steam generators are scheduled to be installed.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Kimberly Green, 301–415–1627.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the table below. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCE(S)

Arizona Public Service Company, et al.; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ

Docket No(s)	50–528, 50–529, 50–530.
Amendment Date	April 21, 2021.
ADAMS Accession No	ML21105A340.
Amendment No(s)	215 (Unit 1), 215 (Unit 2), and 215 (Unit 3).
Brief Description of Amendment(s)	The amendments changed the technical specifications to revise the current instrumentation testing definitions of channel calibration and channel functional test to permit determination of the appropriate frequency to perform the surveillance requirement based on the devices being tested in each step. The changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–563, Revision 0, ''Revise Instrument Testing Definitions to Incorporate the Surveillance Frequency Control Program.''

LICENSE AMENDMENT ISSUANCE(S)—Continued

Public Comments Received as to Proposed NSHC (Yes/No).	No.

Dominion Energy South Carolina, Inc.; Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, SC

Docket No(s)	50–395.
Amendment Date	April 9, 2021.
ADAMS Accession No	ML21063A001.
Amendment No(s)	218.
Brief Description of Amendment(s)	The amendment revised Technical Specifications 3.6.4, ''Containment Isolation Valves,'' to replace the term ''valve'' with the term ''barrier'' to encompass all components providing the containment isolation function and to specify that the actions to address an inoperable containment isolation valve apply to the affected penetration flow path only rather than all flow paths associated with the penetration.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

DTE Electric Company; Fermi, Unit 2; Monroe County, MI

Docket No(s)	50–341.
Amendment Date	April 26, 2021.
ADAMS Accession No	ML21098A045.
Amendment No(s)	219.
Brief Description of Amendment(s)	The amendment revised Technical Specification (TS) Section 1.3, ''Completion Times,'' and Section 3.0, ''LCO [Limiting Condition for Operation] Applicability.'' Specifically, these changes clarify and expand the use and application of the Fermi TS usage rules and are consistent with NRC-approved Technical Specifications Task Force (TSTF) Traveler TSTF–529, Revision 4.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC

Docket No(s)	50–400.
Amendment Date	April 2, 2021.
ADAMS Accession No	ML21047A314.
Amendment No(s)	184.
Brief Description of Amendment(s)	The amendment revised technical specification requirements to permit the use of risk-informed completion times for actions to be taken when limiting conditions for operation are not met. The changes are consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–505, Revision 2, ''Provide Risk Informed Extended Completion Times—RITSTF Initiative 4b,'' dated July 2, 2018.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC

Docket No(s)	50–400.
Amendment Date	April 8, 2021.
ADAMS Accession No	ML21047A470.
Amendment No(s)	185.
Brief Description of Amendment(s)	The amendment revised Technical Specification (TS) 3/4.2.5, ''DNB [Departure from Nucleate Boiling] Parameters,'' and TS 6.9.1.6, ''Core Operating Limits Report'' in support of analysis development for Shearon Harris Nuclear Power Plant, Unit 1, (HNP), cycle 24 and the introduction of reload batches of Framatome, Inc. (Framatome) GAIA fuel assemblies. TS 3/4.2.5 is revised to reflect a lower minimum Reactor Coolant System (RCS) flow rate, whereas TS 6.9.1.6.2 is revised to reflect the incorporation of the AREVA NP, Inc., Topical Report EMF–2103(P)(A), Revision 3, ''Realistic Large Break LOCA [Loss-of-Coolant Accident] Methodology for Pressurized Water Reactors''; HNP TS 6.9.1.6.2 is also revised to reflect the removal of analytical methods no longer applicable for the determination of HNP core operating limits. In addition, as part of the submitted license amendment request, the licensee provided an updated small break LOCA analysis, reflecting the proposed lower minimum RCS flow rate and the use of GAIA fuel assemblies.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Beaver Valley Power Station, Units 1 and 2; Beaver County, PA; Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Davis-Besse Nuclear Power Station, Unit 1; Ottawa County, OH

Docket No(s)	50–334, 50–346, 50–412.
Amendment Date	April 16, 2021.
ADAMS Accession No	ML21075A113.
Amendment No(s)	Beaver Valley—311 (Unit 1) and 200 (Unit 2); Davis-Besse—302.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Brief Description of Amendment(s)	The amendments changed the Beaver Valley Power Station, Units 1 and 2, and the Davis-Besse Nuclear Power Station, Unit 1, Technical Specification (TS) 5.2, ''Unit Staff,'' Subpart 2.e, to align with the standard technical specifications (STS) for each type of facility. Additionally, a title listed in the STS is revised to reflect a more generic title. These changes do not alter any technical requirements and are administrative in nature.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Perry Nuclear Power Plant, Unit 1; Lake County, OH

Docket No(s)	50–440.
Amendment Date	April 27, 2021.
ADAMS Accession No	ML21081A070.
Amendment No(s)	193.
Brief Description of Amendment(s)	The amendment revised the requirements related to direct current (DC) electrical systems based on the NRC-approved Technical Specifications Task Force (TSTF) Traveler TSTF–500, Revision 2, ''DC Electrical Rewrite—Update to TSTF–360.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point 3, LLC; Indian Point Nuclear Generating Station, Unit No. 3; Westchester County, NY

Docket No(s)	50–286.
Amendment Date	April 22, 2021.
ADAMS Accession No	ML21074A000.
Amendment No(s)	270.
Brief Description of Amendment(s)	The amendment revised the Indian Point ,Unit No. 3, Renewed Facility Operating License (RFOL) and the Technical Specifications (TSs) in Appendix A to Permanently Defueled TSs (PDTS), the Environmental TS Requirements in Appendix B of the RFOL, and the Inter-Unit Transfer TSs in Appendix C. The amendment revised certain requirements contained within the Indian Point, Unit No. 3, RFOL and the Appendices A through C TSs and removed the requirements that will no longer be applicable after Indian Point, Unit No. 3, is permanently shut down and defueled.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Station, Unit No. 1; Westchester County, NY

Docket No(s)	50–003.
Amendment Date	April 14, 2021.
ADAMS Accession No	ML21083A000.
Amendment No(s)	63.
Brief Description of Amendment(s)	The amendment revised the Indian Point Nuclear Generating Station, Unit No. 1, Provisional Operating License and the technical specifications in Appendix A to reflect the current conditions at Indian Point, Unit No. 1, and the permanent cessation of power operations at Indian Point Nuclear Generating Station, Unit No. 2, and to note that certain Indian Point, Unit No. 1, systems also support Indian Point Nuclear Generating Station, Unit No. 3.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2; Pope County, AR

Docket No(s)	50–368.
Amendment Date	April 14, 2021.
ADAMS Accession No	ML21088A433.
Amendment No(s)	324.
Brief Description of Amendment(s)	The amendment revised the Arkansas Nuclear One, Unit 2, Technical Specifications to adopt Technical Specifications Task Force (TSTF) Traveler, TSTF–569, Revision 2, ''Revise Response Time Testing Definition.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Exelon FitzPatrick, LLC and Exelon Generation Company, LLC; James A FitzPatrick Nuclear Power Plant; Oswego County, NY

Docket No(s)	50–333.
Amendment Date	April 28, 2021.
ADAMS Accession No	ML21049A355.
Amendment No(s)	341.
Brief Description of Amendment(s)	The amendment revised the FitzPatrick technical specifications (TS) consistent with NRC-approved Industry Technical Specifications Task Force (TSTF) Change Traveler, TSTF–478–A, Revision 2, ''BWR [Boiling-Water Reactor] Technical Specification Changes that Implement the Revised Rule for Combustible Gas Control.'' Specifically, the amendment deleted TS 3.6.3.2, ''Containment Atmosphere Dilution (CAD) System,'' and the associated bases.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Public Comments Received as to Proposed NSHC (Yes/No).	No.

Exelon FitzPatrick, LLC and Exelon Generation Company, LLC; James A FitzPatrick Nuclear Power Plant; Oswego County, NY; Exelon Generation Company, LLC; Clinton Power Station, Unit 1; DeWitt County, IL; Exelon Generation Company, LLC; Dresden Nuclear Power Station, Units 2 and 3; Grundy County, IL; Exelon Generation Company, LLC; LaSalle County Station, Units 1 and 2; LaSalle County, IL; Exelon Generation Company, LLC; Peach Bottom Atomic Power Station, Units 2 and 3; York County, PA; Exelon Generation Company, LLC; Quad Cities Nuclear Power Station, Units 1 and 2; Rock Island County, IL; Nine Mile Point Nuclear Station, LLC and Exelon Generation Company, LLC; Nine Mile Point Nuclear Station, Unit 2; Oswego County, NY

Docket No(s)	50–461, 50–237, 50–249, 50–333, 50–373, 50–374, 50–410, 50–277, 50–278, 50–254, 50–265.
Amendment Date	April 1, 2021.
ADAMS Accession No	ML21033A530.
Amendment No(s)	Clinton—236; Dresden—274 (Unit 2) and 267 (Unit 3); FitzPatrick—340; LaSalle—248 (Unit 1) and 234 (Unit 2); Nine Mile Point 2—185; Peach Bottom—337 (Unit 2) and 340 (Unit 3); Quad Cities—286 (Unit 1) and 282 (Unit 2).
Brief Description of Amendment(s)	The amendments revised the technical specifications for each facility to change the required actions for inoperable residual heat removal (RHR) shutdown cooling subsystems. The changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–566, Revision 0, ''Revise Actions for Inoperable RHR Shutdown Cooling Subsystems'' (ADAMS Accession No. ML18019B187).
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Exelon Generation Company, LLC; Braidwood Station, Units 1 and 2; Will County, IL; Exelon Generation Company, LLC; Byron Station, Units 1 and 2; Ogle County, IL

Docket No(s)	50–454, 50–455, 50–456, 50–457.
Amendment Date	April 2, 2021.
ADAMS Accession No	ML21060B281.
Amendment No(s)	Braidwood—221 (Unit 1) and 221 (Unit 2); Byron—224 (Unit 1) and 224 (Unit 2).
Brief Description of Amendment(s)	The amendments modified Technical Specification 3.8.1, ''AC [Alternating Current] Sources-Operating,'' to revise certain minimum and maximum voltage and frequency acceptance criteria for steady-state standby diesel generator surveillance testing.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

PSEG Nuclear LLC; Hope Creek Generating Station; Salem County, NJ

Docket No(s)	50–354.
Amendment Date	April 26, 2021.
ADAMS Accession No	ML21098A087.
Amendment No(s)	228.
Brief Description of Amendment(s)	The amendment revised the Hope Creek technical specification (TS) requirements for unavailable barriers by adding Limiting Condition for Operation 3.0.9. This change is consistent with NRC-approved Industry Technical Specifications Task Force (TSTF) Change Traveler TSTF–427, Revision 2, ''Allowance for Non Technical Specification Barrier Degradation on Supported System OPERABILITY.'' The availability of this TS improvement was published in the **Federal Register** on October 3, 2006 (71 FR 58444), as part of the Consolidated Line Item Improvement Process (CLIIP).
Public Comments Received as to Proposed NSHC (Yes/No).	No.

STP Nuclear Operating Company; South Texas Project, Units 1 and 2; Matagorda County, TX

Docket No(s)	50–498, 50–499.
Amendment Date	April 7, 2021.
ADAMS Accession No	ML21007A231.
Amendment No(s)	221 (Unit 1) and 206 (Unit 2).
Brief Description of Amendment(s)	The amendments authorized the revision of the emergency plan, which was rebaselined based on guidance in NUREG–0654/FEMA–REP–1, ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' Revision 2.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

STP Nuclear Operating Company; South Texas Project, Units 1 and 2; Matagorda County, TX

Docket No(s)	50–498, 50–499.
Amendment Date	April 8, 2021.
ADAMS Accession No	ML21033A239.
Amendment No(s)	222 (Unit 1) and 207 (Unit 2).

LICENSE AMENDMENT ISSUANCE(S)—Continued

Brief Description of Amendment(s)	The amendments revised the technical specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–374, Revision 0, ''Revision to TS 5.5.13 and Associated TS Bases for Diesel Fuel Oil.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL

Docket No(s)	50–259, 50–260, 50–296.
Amendment Date	April 8, 2021.
ADAMS Accession No	ML21041A489.
Amendment No(s)	315 (Unit 1), 338 (Unit 2), and 298 (Unit 3).
Brief Description of Amendment(s)	The amendments revised the technical specifications (TS) by the adoption, with administrative and technical variations, of Technical Specifications Task Force (TSTF) Traveler TSTF–425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control—Risk Informed Technical Specification Task Force (RITSTF) Initiative 5b.'' TSTF–425, Revision 3, provides for the relocation of specific surveillance frequencies to a licensee-controlled program. Additionally, the change adds a new program, the Surveillance Frequency Control Program, to TS Section 5.0, ''Administrative Controls.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Units 1 and 2; Somervell County, TX

Docket No(s)	50–445, 50–446.
Amendment Date	April 23, 2021.
ADAMS Accession No	ML21103A039.
Amendment No(s)	179 (Unit 1) and 179 (Unit 2).
Brief Description of Amendment(s)	The amendments adopted Technical Specifications Task Force (TSTF) Traveler TSTF–569, Revision 2, ''Revise Response Time Testing Definition.'' The amendments revised the technical specification definitions for engineered safety feature response time and reactor trip system response time.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS

Docket No(s)	50–482.
Amendment Date	April 8, 2021.
ADAMS Accession No	ML21053A117.
Amendment No(s)	227.
Brief Description of Amendment(s)	The amendment revised the technical specifications by relocating specific surveillance frequencies to a licensee- controlled program with the implementation of Nuclear Energy Institute (NEI) 04–10, ''Risk-Informed Technical Specification Initiative 5b, Risk-Informed Method for Control of Surveillance Frequencies.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS

Docket No(s)	50–482.
Amendment Date	April 23, 2021.
ADAMS Accession No	ML21061A078.
Amendment No(s)	228.
Brief Description of Amendment(s)	The amendment changed the Updated Safety Analysis Report describing the design and operation of replacement engineered safety features transformers that have active automatic load tap changes.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

IV. Notice of Issuance of Amendment to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Circumstances or Emergency Situation)

Since publication of the last monthly notice, the Commission has issued the following amendment. The Commission has determined for this amendment that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Because of exigent circumstances or emergency situation associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed NSHC determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of NSHC. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its NSHC determination. In such case, the license amendment has been issued without opportunity for comment prior to issuance. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that NSHC is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves NSHC. The basis for this determination is contained in the documents related to each action. Accordingly, the amendment has been issued and made effective as indicated. For those amendments that have not been previously noticed in the **Federal Register**, within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the guidance concerning the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2 as discussed in section II.A of this document.

Unless otherwise indicated, the Commission has determined that the amendment satisfies the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to these actions, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the table below. The safety evaluation will provide the ADAMS accession number(s) for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCE(S)—EXIGENT/EMERGENCY CIRCUMSTANCES

Southern Nuclear Operating Company, Inc.; Edwin I Hatch Nuclear Plant, Unit 2; Appling County, GA	
Docket No(s)	50–366.
Amendment Date	April 22, 2021.
ADAMS Accession No	ML21109A388.
Amendment No(s)	254.
Brief Description of Amendment(s)	The one-time emergency amendment approved a revision to Edwin I. Hatch, Unit 2 Technical Specification 3.5.1, ''ECCS [Emergency Core Cooling System]—Operating,'' to extend the Completion Time from 7 days to 15 days to effect repairs and testing of the 2D residual heat removal pump that failed during a test on April 16, 2021. The amendment allows the unit to continue operating at full power with compensatory measures until May 1, 2021.
Local Media Notice (Yes/No)	No.
Public Comments Requested as to Proposed NSHC (Yes/No).	No.

Dated: May 12, 2021.

For the Nuclear Regulatory Commission.

Caroline L. Carusone,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2021–10374 Filed 5–17–21; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331; NRC–2021–0105]

NextEra Energy Duane Arnold, LLC; Duane Arnold Energy Center

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request from the licensee that would permit NextEra Energy Duane Arnold, LLC to reduce the required level of primary offsite liability insurance from $450 million to $100 million and to eliminate the requirement to carry secondary financial protection for the Duane Arnold Energy Center.

DATES: The exemption was issued on May 11, 2021.

ADDRESSES: Please refer to Docket ID NRC–2021–0105 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0105. Address questions about Docket IDs in

Regulations.gov to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marlayna V. Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: May 12, 2021.

For the Nuclear Regulatory Commission.

Marlayna V. Doell,

Project Manager, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

Nuclear Regulatory Commission

Docket No. 50–331

NextEra Energy Duane Arnold, LLC; Duane Arnold Energy Center; Exemption

I. Background

By letter dated January 18, 2019 Agencywide Documents Access and Management System (ADAMS) Accession No. ML19023A196, NextEra Energy Duane Arnold, LLC (NEDA, the licensee) certified to the U.S. Nuclear Regulatory Commission (NRC, the Commission) that it planned to permanently cease power operations at the Duane Arnold Energy Center (DAEC) in the fourth quarter of 2020. By letter dated March 2, 2020 (ADAMS Accession No. ML20062E489), NEDA updated its timeline and certified to the NRC that it planned to permanently cease power operations at DAEC on October 30, 2020. By letter dated August 27, 2020 (ADAMS Accession No. ML20240A067), NEDA certified to the NRC that power operations permanently ceased at DAEC on August 10, 2020, and in a letter dated October 12, 2020 (ADAMS Accession No. ML20286A317), that the fuel was permanently removed from the DAEC reactor vessel and placed in the spent fuel pool (SFP) as of October 12, 2020.

Based on the docketing of these certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, as specified in Title 10 of the *Code of Federal Regulations* (10 CFR) section 50.82(a)(2), the 10 CFR part 50 renewed facility operating license for DAEC (No. DPR–49) no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel. The facility is still authorized to possess and store irradiated (*i.e.,* spent) nuclear fuel. Spent fuel is currently stored onsite at the DAEC facility in the SFP and in a dry cask independent spent fuel storage installation (ISFSI).

II. Request/Action

By letter dated July 16, 2020 (ADAMS Accession No. ML20198M584), NEDA requested an exemption from 10 CFR 140.11(a)(4) concerning offsite primary and secondary liability insurance. The exemption from 10 CFR 140.11(a)(4) would permit the licensee to reduce the required level of primary offsite liability insurance from $450 million to $100 million and to eliminate the requirement to carry secondary financial protection for DAEC.

The regulation at 10 CFR 140.11(a)(4) requires each licensee to have and maintain primary financial protection in an amount of $450 million. In addition, the licensee is required to participate in an industry retrospective rating plan (secondary financial protection) that commits each licensee to pay into an insurance pool to be used for damages that may exceed primary insurance coverage. Participation in the industry retrospective rating plan will subject the licensee to deferred premium charges up to a maximum total deferred premium of $131,056,000 with respect to any nuclear incident at any operating nuclear power plant and up to a maximum annual deferred premium of $20,496,000 per incident.

Many of the accident scenarios postulated in the updated safety analysis reports for operating power reactors involve failures or malfunctions of systems, which could affect the fuel in the reactor core and, in the most severe postulated accidents, would involve the release of large quantities of fission products. With the permanent cessation of power operations at DAEC and the permanent removal of the fuel from the reactor vessel, many accidents are no longer possible. Similarly, the associated risk of offsite liability damages that would require insurance or indemnification is commensurately lower for such plants. Therefore, the licensee requested an exemption from 10 CFR 140.11(a)(4) to permit a reduction in primary offsite liability insurance and to withdraw from participation in the industry retrospective rating plan.

III. Discussion

Pursuant to 10 CFR 140.8, ''Specific exemptions,'' the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in 10 CFR part 140 when the exemptions are authorized by law and are otherwise in the public interest. The NRC staff has reviewed the licensee's request for an exemption from 10 CFR 140.11(a)(4) and has concluded that the requested exemption is authorized by law and is otherwise in the public interest.

The Price Anderson Act of 1957 (PAA) requires that nuclear power reactor licensees have insurance to compensate the public for damages arising from a nuclear incident. Specifically, the PAA requires licensees of facilities with a ''rated capacity of 100,000 electrical kilowatts or more'' to maintain the maximum amount of primary offsite liability insurance commercially available (currently $450 million) and a specified amount of secondary insurance coverage (currently up to $131,056,000 per reactor). In the event of an accident causing offsite damages in excess of $450 million, each licensee would be assessed a prorated share of the excess damages, up to $131,056,000 per reactor, for a total of approximately $13 billion per nuclear incident. The NRC's regulations at 10 CFR 140.11(a)(4) implement these PAA insurance requirements and set forth the amount of primary and secondary insurance each power reactor licensee must have.

As noted above, the PAA requirements with respect to primary and secondary insurance and the implementing regulations at 10 CFR

140.11(a)(4) apply to licensees of facilities with a ''rated capacity of 100,000 electrical kilowatts or more.'' In accordance with 10 CFR 50.82(a)(2), the license for a power reactor no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel upon the docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel. Therefore, the reactor cannot be used to generate power.

Accordingly, a reactor that is undergoing decommissioning has no ''rated capacity.'' Thus, the NRC may take the reactor licensee out of the category of reactor licensees that are required to maintain the maximum available insurance and to participate in the secondary retrospective insurance pool.

The financial protection limits of 10 CFR 140.11(a)(4) were established to require a licensee to maintain sufficient insurance, as specified under the PAA, to satisfy liability claims by members of the public for personal injury, property damage, and the legal cost associated with lawsuits as the result of a nuclear accident at an operating reactor with a rated capacity of 100,000 kilowatts electric or greater. Thus, the insurance levels established by this regulation, as required by the PAA, were associated with the risks and potential consequences of an accident at an operating reactor with a rated capacity of 100,000 kilowatts electric or greater.

The legal and associated technical basis for granting exemptions from 10 CFR part 140 is set forth in SECY–93–127, ''Financial Protection Required of Licensees of Large Nuclear Power Plants During Decommissioning,'' dated May 10, 1993 (ADAMS Accession No. ML12257A628). The legal analysis underlying SECY–93–127 concluded that, upon a technical finding that lesser potential hazards exist after permanent cessation of power operations (and the reactor having no ''rated capacity''), the Commission has the discretion under the PAA to reduce the amount of insurance required of a licensee undergoing decommissioning.

As a technical matter, the fact that a reactor has permanently ceased power operations is not itself determinative as to whether a licensee may cease providing the offsite liability coverage required by the PAA and 10 CFR 140.11(a)(4). In light of the presence of freshly discharged irradiated fuel in the SFP at a recently shutdown reactor, the potential for an offsite radiological release from a zirconium fire with consequences comparable in some respects to an operating reactor accident remains. That risk is very low at the time of reactor shutdown because of design provisions that prevent a significant reduction in coolant inventory in the SFP under normal and accident conditions, and becomes no longer credible once the continual reduction in decay heat provides ample time to restore coolant inventory and permits air cooling in a drained SFP. After that time, the probability of a large offsite radiological release from a zirconium fire is negligible for permanently shutdown reactors, but the SFP is still operational and an inventory of radioactive materials still exists onsite. Therefore, an evaluation of the potential for offsite damage is necessary to determine the appropriate level of offsite insurance post shutdown, in accordance with the Commission's discretionary authority under the PAA to establish an appropriate level of required financial protection for such permanently shutdown facilities.

The NRC staff has conducted an evaluation and concluded that, aside from the handling, storage, and transportation of spent fuel and radioactive materials for a permanently shutdown and defueled reactor, no reasonably conceivable potential accident exists that could cause significant offsite damage. During normal power reactor operations, the forced flow of water through the reactor coolant system (RCS) removes heat generated by the reactor. The RCS transfers this heat away from the reactor core by converting reactor feedwater to steam, which then flows to the main turbine generator to produce electricity. Most of the accident scenarios postulated for operating power reactors involve failures or malfunctions of systems that could affect the fuel in the reactor core, which in the most severe postulated accidents would involve the release of large quantities of fission products. With the permanent cessation of reactor operations at DAEC and the permanent removal of the fuel from the reactor core, such accidents are no longer possible. The reactor, RCS, and supporting systems no longer operate and have no function related to the storage of the irradiated fuel. Therefore, postulated accidents involving failure or malfunction of the reactor, RCS, or supporting systems are no longer applicable.

During reactor decommissioning, the principal radiological risks are associated with the storage of spent fuel onsite. On a case-by-case basis, licensees undergoing decommissioning have been granted permission to reduce the required amount of primary offsite liability insurance coverage from $450 million to $100 million and to withdraw from the secondary insurance pool. One of the technical criteria for granting the exemption is that the possibility of a design-basis event that could cause significant offsite damage has been significantly reduced.

The NRC staff performed an evaluation of the design-basis accidents for DAEC when permanently defueled as part of SECY–21–0006, ''Request by NextEra Energy Duane Arnold, LLC for Exemptions from Certain Emergency Planning Requirements for the Duane Arnold Energy Center,'' dated January 15, 2021 (ADAMS Package Accession No. ML20218A875).

NEDA has stated, and the NRC staff agrees, that while spent fuel remains in the SFP, the only postulated design-basis accident that would remain applicable to DAEC in the permanently defueled condition that could contribute a significant dose is a fuel handling accident (FHA) in the reactor building, where the SFP is located. For completeness, the NRC staff also evaluated the applicability of other design-basis accidents documented in the DAEC Updated Final Safety Analysis Report (UFSAR) (ADAMS Package Accession No. ML19100A055) to ensure that these accidents would not have consequences that could potentially exceed the 10 CFR 50.67 dose limits and Regulatory Guide 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' dose acceptance criteria or approach the U.S. Environmental Protection Agency (EPA) early phase protective action guides (PAGs).

In the DAEC UFSAR, the licensee has determined that within 19 days after shutdown (with open containment), the FHA doses would decrease to a level that would not warrant protective actions under the EPA early phase PAG framework, notwithstanding meeting the dose limit requirements under 10 CFR 50.67 and dose acceptance criteria under Regulatory Guide 1.183. The NRC staff notes that the doses from an FHA are dominated by the isotope Iodine-131. DAEC permanently ceased power operations on August 10, 2020. With 10 months of decay, the thyroid dose from an FHA would be negligible. After 10 months of decay, the only isotope remaining in significant amounts, among those postulated to be released in a design-basis FHA, would be Krypton-85. Since Krypton-85 primarily decays by beta emission, the calculated skin dose from an FHA analysis would make an insignificant contribution to the total effective dose equivalent, which is the parameter of interest in the

determination of the EPA early phase PAGs for sheltering or evacuation. The NRC staff concludes that the dose consequence from an FHA for the permanently shutdown DAEC would not approach the EPA early phase PAGs. Therefore, any offsite consequence from a design-basis radiological release is highly unlikely and, thus, a significant amount of offsite liability insurance coverage is not required.

The only beyond design-basis event that has the potential to lead to a significant radiological release at a permanently shutdown and defueled reactor is a zirconium fire in the SFP. The zirconium fire scenario is a postulated, but highly unlikely, accident scenario that involves the loss of water inventory from the SFP resulting in a significant heatup of the spent fuel and culminating in substantial zirconium cladding oxidation and fuel damage. The probability of a zirconium fire scenario is related to the decay heat of the irradiated fuel stored in the SFP. Therefore, the risks from a zirconium fire scenario continue to decrease as a function of the time that DAEC has been permanently shut down.

In SECY–93–127 the NRC staff concluded that there was a low likelihood and reduced short-term public health consequences of a zirconium fire once a decommissioning plant's spent fuel has sufficiently decayed. In its Staff Requirements Memorandum, ''Financial Protection Required of Licensees of Large Nuclear Power Plants during Decommissioning,'' dated July 13, 1993 (ADAMS Accession No. ML003760936), the Commission approved a policy that authorized, through the exemption process, withdrawal from participation in the secondary insurance layer and a reduction in commercial liability insurance coverage to $100 million when a licensee is able to demonstrate that the spent fuel could be air-cooled if the SFP was drained of water.

The NRC staff has used this technical criterion to grant similar exemptions to other decommissioning reactors (*e.g.,* Pilgrim Nuclear Power Station, published in the **Federal Register** on January 13, 2020 (85 FR 1827)). Additional discussions of other decommissioning reactor licensees that have received exemptions to reduce their primary insurance level to $100 million are provided in SECY–96–256, ''Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' dated December 17, 1996 (ADAMS Accession No. ML15062A483). These prior exemptions were based on the licensee demonstrating that the SFP could be air-cooled consistent with the technical criterion discussed above.

In SECY–00–0145, ''Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning,'' dated June 28, 2000, and SECY–01–0100, ''Policy Issues Related to Safeguards, Insurance, and Emergency Preparedness Regulations at Decommissioning Nuclear Power Plants Storing Fuel in Spent Fuel Pools,'' dated June 4, 2001 (ADAMS Accession Nos. ML003721626 and ML011450420, respectively), the NRC staff discussed additional information concerning SFP zirconium fire risks at decommissioning reactors and associated implications for offsite insurance. Analyzing when the spent fuel stored in the SFP is capable of adequate air-cooling is one measure that demonstrates when the probability of a zirconium fire would be exceedingly low.

The NRC staff evaluated the issue of zirconium fires and presented an independent evaluation of an SFP subject to a severe earthquake in NUREG–2161, ''Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a U.S. Mark l Boiling Water Reactor,'' dated September 2014 (ADAMS Accession No. ML14255A365). The specific reference plant used for this study is a General Electric (GE) Type 4 BWR with a Mark I containment. The analysis postulates a severe earthquake and evaluates the potential for the SFP to lose inventory and potentially uncover the spent fuel. This evaluation concluded that, for the representative BWR, spent fuel stored in a dispersed high-density configuration would be adequately cooled by natural circulation air flow within several months after discharge from a reactor if the pool was drained of water during a severe earthquake scenario. Specifically, the NUREG–2161 analysis identified that 107 days after shutdown, the stored fuel would have decayed sufficiently and be in a configuration that allows for air cooling of the fuel during a severe earthquake. This would prevent radiological releases without the need for additional mitigation actions; therefore, no release as a result of a zirconium cladding fire would be expected.

The NRC staff compared the DAEC facility with the reference plant in NUREG–2161 and identified that DAEC is also a GE Type 4 BWR with a Mark I containment. The staff also confirmed (see ADAMS Accession No. ML21089A207) that DAEC stores the spent fuel following a dispersed high-density loading pattern consistent with the dispersed high-density configuration assumed in NUREG–2161. Therefore, the NRC staff determined that the stored fuel in the DAEC SFP will remain in a coolable configuration following a design basis seismic event. Based on DAEC's conformance with the analysis in NUREG–2161, the NRC staff finds that there is reasonable assurance that the fuel stored in the DAEC SFP is air coolable 10 months after the permanent shutdown of the reactor.

In addition, the licensee performed adiabatic heatup analyses in which a complete drainage of the SFP is combined with rearrangement of spent fuel rack geometry and/or the addition of rubble to the SFP; this type of analysis postulates that decay heat transfer from the spent fuel via conduction, convection, or radiation would be impeded. NEDA's adiabatic heatup analyses demonstrate that 10 months after the permanent cessation of operations, there would be at least 10 hours after the loss of all means of cooling (both air and/or water) before the spent fuel cladding would reach a temperature where the potential for a significant offsite radiological release could occur.

In the July 16, 2020, application, NEDA furnished the following information: ''Because of the length of time it would take for the adiabatic heat up to occur, there is ample time to respond to any partial drain down event that might cause such an occurrence by restoring cooling or makeup, or providing spray. As a result, the likelihood that such a scenario would progress to a zirconium fire is deemed not credible.''

In the NRC staff's evaluation contained in SECY–21–0006, the NRC staff assessed the NEDA accident analyses associated with the radiological risks from a zirconium fire at a permanently shutdown and defueled DAEC after 10 months of decay. For the highly unlikely beyond design-basis accident scenario where the SFP coolant inventory is lost in such a manner that all methods of heat removal from the spent fuel are no longer available, the NRC staff found that there will be a minimum of 10 hours from the initiation of the accident until the cladding reaches a temperature where offsite radiological release might occur. The NRC staff finds that 10 hours is sufficient time to support deployment of mitigation equipment, consistent with plant conditions, to prevent the zirconium cladding from reaching a point of rapid oxidation.

The NRC staff has determined that the licensee's proposed reduction in primary offsite liability coverage to a level of $100 million and the licensee's

proposed withdrawal from participation in the secondary insurance pool for offsite financial protection are consistent with the policy established in SECY–93–127 and subsequent insurance considerations resulting from zirconium fire risks, as discussed in SECY–00–0145 and SECY–01–0100. The NRC has previously determined in SECY–00–0145 that the minimum offsite financial protection requirement may be reduced to $100 million and that secondary insurance is not required once it is determined that the spent fuel in the SFP is no longer thermal-hydraulically capable of sustaining a zirconium fire based on a plant-specific analysis. In addition, the NRC staff notes that similar exemptions from these insurance requirements have been granted to other permanently shutdown and defueled power reactors upon satisfactory demonstration that the zirconium fire risk from the irradiated fuel stored in the SFP is of negligible concern.

A. The Exemption Is Authorized by Law

The PAA and its implementing regulations in 10 CFR 140.11(a)(4) require licensees of nuclear reactors that have a rated capacity of 100,000 kilowatts electric or more to have and maintain $450 million in primary financial protection and to participate in a secondary retrospective insurance pool. In accordance with 10 CFR 140.8, the Commission may grant exemptions from the regulations in 10 CFR part 140 as the Commission determines are authorized by law. The legal and associated technical basis for granting exemptions from 10 CFR part 140 are set forth in SECY–93–127. The legal analysis underlying SECY–93–127 concluded that, upon a technical finding that lesser potential hazards exist after permanent cessation of operations, the Commission has the discretion under the PAA to reduce the amount of insurance required of a licensee undergoing decommissioning.

Based on its review of the exemption request, the NRC staff concludes that the technical criteria for relieving NEDA from its existing primary and secondary insurance obligations have been met. As explained above, the NRC staff found that no reasonably conceivable design-basis accident exists that could cause an offsite release greater than the EPA PAGs and, therefore, that any offsite consequence from a design-basis radiological release is highly unlikely and the need for a significant amount of offsite liability insurance coverage is unwarranted. Additionally, the NRC staff determined that, after 10 months decay, the fuel stored in the DAEC SFP will be capable of being adequately cooled by air in the highly unlikely event of pool drainage. Moreover, in the highly unlikely beyond design-basis accident scenario where the SFP coolant inventory is lost in such a manner that all methods of heat removal from the spent fuel are no longer available, the NRC staff has determined that at least 10 hours would be available and is sufficient time to support deployment of mitigation equipment, consistent with plant conditions, to prevent the zirconium cladding from reaching a point of rapid oxidation. Thus, the NRC staff concludes that the fuel stored in the DEAC SFP will have decayed sufficiently by the requested effective date for the exemption of 10 months after permanent cessation of power operations to support a reduction in the required offsite insurance consistent with SECY–00–0145.

The NRC staff has determined that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, Section 170, or other laws, as amended, which require licensees to maintain adequate financial protection. Accordingly, consistent with the legal standard presented in SECY–93–127, under which decommissioning reactor licensees may be relieved of the requirements to carry the maximum amount of insurance available and to participate in the secondary retrospective premium pool where there is sufficient technical justification, the NRC staff concludes that the requested exemption is authorized by law.

B. The Exemption Is Otherwise in the Public Interest

The financial protection limits of 10 CFR 140.11 were established to require licensees to maintain sufficient offsite liability insurance to ensure adequate funding for offsite liability claims following an accident at an operating reactor. However, the regulation does not consider the reduced potential for and consequence of nuclear incidents at permanently shutdown and decommissioning reactors.

The basis provided in SECY–93–127, SECY–00–0145, and SECY–01–0100 allows licensees of decommissioning plants to reduce their primary offsite liability insurance and to withdraw from participation in the retrospective rating pool for deferred premium charges. As discussed in these documents, once the zirconium fire concern is determined to be negligible, possible accident scenario risks at permanently shutdown and defueled reactors are greatly reduced when compared to the risks at operating reactors, and the associated potential for offsite financial liabilities from an accident are commensurately less. The licensee analyzed and the NRC staff confirmed that the risks of accidents that could result in an offsite radiological release are minimal, thereby justifying the proposed reductions in offsite primary liability insurance and withdrawal from participation in the secondary retrospective rating pool for deferred premium charges.

Additionally, participation in the secondary retrospective rating pool could potentially have adverse consequences on the safe and timely completion of decommissioning. If a nuclear incident sufficient to trigger the secondary insurance layer occurred at another nuclear power plant, the licensee could incur financial liability of up to $131,056,000. However, because DAEC is permanently shut down, it cannot produce revenue from electricity generation sales to cover such a liability. Therefore, such liability if subsequently incurred could significantly affect the ability of the facility to conduct and complete timely radiological decontamination and decommissioning activities. In addition, as SECY–93–127 concluded, the shared financial risk exposure to the licensee is greatly disproportionate to the radiological risk posed by DAEC when compared to operating reactors.

The reduced overall risk to the public at decommissioning power plants does not warrant that the licensee be required to carry full operating reactor insurance coverage after the requisite spent fuel cooling period has elapsed following final reactor shutdown. The licensee's proposed financial protection limits will maintain a level of liability insurance coverage commensurate with the risk to the public. These changes are consistent with previous NRC policy as discussed in SECY–00–0145 and exemptions approved for other decommissioning reactors. Thus, the underlying purpose of the regulations will not be adversely affected by the reductions in insurance coverage. Accordingly, an exemption from participation in the secondary insurance pool and a reduction in the primary insurance to $100 million, a value more in line with the potential consequences of accidents, would be in the public interest in that this ensures that there will be adequate funds to address any of those consequences and helps to ensure the safe and timely decommissioning of the reactor.

Therefore, the NRC staff has concluded that an exemption from 10 CFR 140.11(a)(4), which would permit NEDA to lower the DAEC primary

insurance levels and to withdraw from the secondary retrospective premium pool at the requested effective date of 10 months after the permanent cessation of power operations, is in the public interest.

C. Environmental Considerations

The NRC's approval of an exemption from insurance or indemnity requirements belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of Chapter I to 10 CFR is a categorical exclusion provided that: (i) There is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve surety, insurance, or indemnity requirements.

As the Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards, I have determined that approval of the exemption request involves no significant hazards consideration, as defined in 10 CFR 50.92, because reducing the licensee's offsite liability requirements for DAEC does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The exempted financial protection regulation is unrelated to the operation of DAEC or site activities. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted regulation is not associated with construction so there is no significant construction impact. The exempted regulation does not concern the source term (*i.e.,* potential amount of radiation in an accident) or any activities conducted at the site. Therefore, there is no significant increase in the potential for, or consequences of, a radiological accident. In addition, there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region resulting from issuance of the requested exemption. The requirement for offsite liability insurance involves surety, insurance, or indemnity matters only.

Therefore, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 140.8, the exemption is authorized by law and is otherwise in the public interest. Therefore, the Commission hereby grants NEDA an exemption from the requirements of 10 CFR 140.11(a)(4) for DAEC. DAEC permanently ceased power operations on August 10, 2020. The exemption from 10 CFR 140.11(a)(4) permits DAEC to reduce the required level of primary financial protection from $450 million to $100 million and to withdraw from participation in the secondary layer of financial protection 10 months after permanent cessation of power operations.

The exemption is effective as of 10 months after permanent cessation of power operations at DAEC, which is June 10, 2021.

Dated: May 11, 2021.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–10405 Filed 5–17–21; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Renewal Without Change of an Existing Information Collection, OPM Form 1655, Application for Senior Administrative Law Judge, and OPM Form 1655–A, Geographic Preference Statement for Senior Administrative Law Judge Applicant, OMB Control Number 3206–0248

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0248, OPM Form 1655, *Application for Senior Administrative Law Judge,* and OPM Form 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant.*

DATES: Comments are encouraged and will be accepted until July 19, 2021. This process is conducted in accordance with 5 CFR 1320.8.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Administrative Law Judge Program Office, 1900 E Street NW, Washington, DC 20415, Attention: Ms. Diane Hobbs, Administrative Law Judge Program Manager or send via electronic mail to *diane.hobbs@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the U.S. Office of Personnel Management, Administrative Law Judge Program Office, 1900 E Street NW, Washington, DC 20415, Attention: Ms. Diane Hobbs. Administrative Law Judge Program Manager, or by sending a request via electronic mail to *diane.hobbs@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by 44 U.S.C. 3506, OPM is soliciting comments for this collection. OPM Form 1655, *Application for Senior Administrative Law Judge,* and OPM Form 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant,* are used by retired Administrative Law Judges seeking reemployment on a temporary and intermittent basis to complete hearings of one or more specified case(s) in accordance with the Administrative Procedure Act of 1946. This revision

proposes to renew a currently approved collection. Therefore, we invite comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: U.S. Office of Personnel Management.

Title: OPM Form 1655, *Application for Senior Administrative Law Judge,* and OPM Form 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant.*

OMB Control Number: 3206–0248.

Frequency: Annually.

Affected Public: Federal Administrative Law Judge Retirees.

Number of Respondents: Approximately 150—OPM Form 1655/ Approximately 200—OPM Form 1655–A.

Estimated Time per Respondent: Approximately 30–45 Minutes—OPM Form 1655/Approximately 15–25 Minutes—OPM Form 1655–A.

Total Burden Hours: Estimated 94 hours—OPM Form 1655/Estimated 67 hours—OPM Form 1655–A.

U.S. Office of Personnel Management.

Stephen Hickman,

Acting Executive Secretary.

[FR Doc. 2021–10372 Filed 5–17–21; 8:45 am]

BILLING CODE 6325–43–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–90 and CP2021–93]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 20, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. Docket No(s).: MC2021–90 and CP2021–93; Filing Title: USPS Request to Add Priority Mail Contract 699 to Competitive Product List and Notice of Filing Materials Under Seal; Filing Acceptance Date: May 12, 2021; Filing Authority: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; Public Representative: Kenneth R. Moeller; Comments Due: May 20, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–10445 Filed 5–17–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91858; File No. SR–PEARL–2021–23]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Fee Schedule To Remove the Cap on the Number of Additional Limited Service Ports Available to Market Makers

May 12, 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 May 10, 2021, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Pearl Options Fee Schedule (the ''Fee Schedule'') to remove the cap on the number of additional Limited Service MIAX Express Order Interface (''MEO'') Ports (defined below) available to Members.[3] The Exchange does not propose to amend the fees for additional Limited Service MEO Ports.

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 Section 5)d) of the Fee Schedule to remove the cap on the number of additional Limited Service MEO Ports available to Members. The Exchange does not propose to amend the fees charged for any additional Limited Service MEO Ports purchased by Members.

The Exchange initially filed this proposal to remove the cap on the number of additional Limited Service MEO Ports available to Members on April 9, 2021.[4] On April 22, 2021, the Exchange withdrew the First Proposed Rule Change and refiled this proposal (without increasing the actual fee amounts) to provide further clarification regarding the Exchange's revenues, costs, and profitability any time more Limited Service MEO Ports become available, in general, (including information regarding the Exchange's methodology for determining the costs and revenues for additional Limited Service MEO Ports).[5] On May 3, 2021, the Exchange withdrew the Second Proposed Rule Change and refiled this proposal to further clarify its cost methodology.[6] On May 10, 2021, the Exchange withdrew the Third Proposed Rule Change and refiled this proposal.

Currently, the Exchange offers different options of MEO Ports depending on the services required by an Exchange Member, including a Full Service MEO Port-Bulk,[7] a Full Service MEO Port-Single,[8] and a Limited Service MEO Port.[9] A Member may be allocated two (2) Full-Service MEO Ports of either type, Bulk and/or Single, per Matching Engine,[10] and up to eight (8) Limited Service MEO Ports, per Matching Engine. The two (2) Full-Service MEO Ports that may be allocated per Matching Engine to a Member currently may consist of: (a) Two (2) Full Service MEO Ports—Bulk; or (b) two (2) Full Service MEO Ports—Single. The Exchange also has a third option, option (c), which permits a Member to have one (1) Full Service MEO Port—Bulk, and one (1) Full Service MEO Port—Single.

The Exchange currently provides Members the first two (2) requested Limited Service MEO Ports free of charge and charges $200 per month for Limited Service MEO Ports three (3) and four (4), $300 per month for Limited Service MEO Ports five (5) and six (6), and $400 per month for Limited Service MEO Ports seven (7) to ten (10). These fees have been unchanged since they were adopted in 2018.[11]

The Exchange originally added the Limited Service MEO Ports to enhance the MEO Port connectivity made available to Members, and subsequently made additional Limited Service MEO Ports available to Members.[12] Limited Service MEO Ports have been well received by Members since their addition. Members are currently limited to purchasing eight (8) additional Limited Service MEO Ports per Matching Engine, for a total of ten (10) per Matching Engine.[13]

The Exchange now proposes to amend Section 5)d) of the Fee Schedule to remove the cap on the number of additional Limited Service MEO Ports that are available to Members. The Exchange notes that no other exchange provides similar caps concerning connectivity and access in their rulebooks or fee schedules.[14] Including the cap on the number of additional Limited Service MEO Ports in the Fee Schedule unnecessarily hampers the Exchange's ability to adjust access to the Exchange's network in order to ensure that the Exchange meets its obligations under the Act such that access to the Exchange is offered on terms that are not unfairly discriminatory [15] among its Members, as well as to ensure sufficient capacity and headroom in the System.[16]

[3] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] *See* SR–PEARL–2021–17 (the ''First Proposed Rule Change'').

[5] *See* SR–PEARL–2021–20 (the ''Second Proposed Rule Change'').

[6] *See* SR–PEARL–2021–22 (the ''Third Proposed Rule Change'').

[7] ''Full Service MEO Port—Bulk'' means an MEO port that supports all MEO input message types and binary bulk order entry. *See* the Definitions Section of the Fee Schedule.

[8] ''Full Service MEO Port—Single'' means an MEO port that supports all MEO input message types and binary order entry on a single order-by-order basis, but not bulk orders. *See* the Definitions Section of the Fee Schedule.

[9] ''Limited Service MEO Port'' means an MEO port that supports all MEO input message types, but does not support bulk order entry and only supports limited order types, as specified by the Exchange via Regulatory Circular. *See* the Definitions Section of the Fee Schedule.

[10] The term ''Matching Engine'' means a part of the MIAX Pearl electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. *See* the Definitions Section of the Fee Schedule.

[11] *See* Securities Exchange Act Release No. 83867 (March 13, 2018), 83 FR 12044 (March 19, 2018) (SR–PEARL–2018–07).

[12] *See* Securities Exchange Act Release Nos. 90812 (December 29, 2020), 86 FR 338 (January 5, 2021) (SR–PEARL–2020–35) (the ''Cost Analysis Filing'').

[13] *See* Fee Schedule, Section 5)d).

[14] *See* Cboe Exchange, Inc. Fee Schedule, available at *https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf;* Cboe BZX Exchange, Inc. Options Fee Schedule, available at *https://www.cboe.com/us/options/membership/fee_schedule/bzx/;* Cboe C2 Exchange, Inc. Fee Schedule, available at *https://www.cboe.com/us/options/membership/fee_schedule/ctwo/;* Cboe EDGX Exchange, Inc. Options Fee Schedule, available at *https://www.cboe.com/us/options/membership/fee_schedule/edgx/;* The Nasdaq Stock Market LLC Options Fee Schedule, available at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207;* Nasdaq PHLX LLC Options Fee Schedule, available at *https://listingcenter.nasdaq.com/rulebook/phlx/rules/Phlx%20Options%207;* NYSE Arca, Inc. Options Fee Schedule, available at *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf;* NYSE American LLC Options Fee Schedule, available at *https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[15] *See* 15 U.S.C. 78f(b)(5).

[16] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

The Exchange monitors the System's performance and makes adjustments to its System based on market conditions and Member demand. Accordingly, the Exchange's obligations under the Act to provide access on terms that are not unfairly discriminatory and market conditions are key drivers of the System's architecture and expansion. Thus the Exchange believes a cap in the Fee Schedule is inconsistent with other exchanges access offerings and not an appropriate mechanism to govern access to the Exchange.

The Exchange also notes that adjusting the amount of available Limited Service MEO Ports does not change on a material basis the overall profitability of Limited Service MEO Ports. Any increase in revenue associated with adding more Limited Service MEO Ports is generally offset by the cost of purchasing and operating such new equipment and providing the services associated with Limited Service MEO Ports. When the Exchange provides fewer Limited Service MEO Ports, its overall expense is lower, but is generally offset by lower revenues associated with Limited Service MEO Ports. The Exchange's recent filing [17] to increase the number of additional Limited Service MEO Ports provides clear evidence of that fact.

All fees related to MEO Ports shall remain unchanged and Members that voluntarily purchase additional Limited Service MEO Ports will remain subject to the existing monthly fees per Limited Service MEO Port as described in Section 5)d) of the Fee Schedule.

The Exchange proposes to amend the port fee table in Section 5)d) of the Fee Schedule to remove the cap of 10 Limited Service MEO Ports as the total number that Members may purchase. With the proposed changes, the port fee table will read as follows:

Type of port	Monthly port fees includes connectivity to the primary, secondary and disaster recovery data centers
FIX Port ^	Per Port: 1st $275, 2nd to 5th $175, 6th or more $75.
Full Service MEO Port—Bulk *	Tier 1 $3,000. Tier 2 $4,500. Tier 3 $5,000.
Full Service MEO Port—Single *	Tier 1 $2,000. Tier 2 $3,375. Tier 3 $3,750.
Limited Service MEO Port **	1st to 2nd $0, 3rd to 4th $200, 5th to 6th $300, 7 or more $400.
MEO Purge Port ***	$750.
CTD Port ^	Per Port: $450.
FXD Port ^	Per Port: $250.

The Exchange also proposes to make corresponding changes to the paragraph below the port fee table in Section 5)d) of the Fee Schedule such that, with the proposed amendments, the explanatory paragraph will read as follows:

Members may be allocated two (2) Full-Service MEO Ports of either type per Matching Engine and may request Limited Service MEO Ports for which MIAX Pearl will assess Members Limited Service MEO Port fees per Matching Engine based on the table above. The two (2) Full-Service MEO Ports that may be allocated per Matching Engine to a Member may consist of: (a) Two (2) Full Service MEO Ports—Bulk; (b) two (2) Full Service MEO Ports—Single; or (c) one (1) Full Service MEO Port—Bulk and one (1) Full Service MEO Port—Single.

The Exchange notes that it does not propose to make any changes to the MIAX Pearl Equities Fee Schedule as part of this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [18] in general, and furthers the objectives of Section 6(b)(5) of the Act [19] in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act [20] because the proposal to remove the cap on the number of additional Limited Service MEO Ports available to Members will apply equally to all Members, regardless of type or size, and will allow the Exchange to offer access to its System on terms that are not unfairly discriminatory. The Exchange does not propose to change the amount of fees charged for additional Limited Service MEO Ports. The existing fees will apply equally to all Members that choose to purchase additional Limited Service MEO Ports, which is a business decision of each Member and not a requirement of the Exchange.

The Exchange believes that its proposal is consistent with the requirements under Section 6(b)(5) of the Exchange Act that the Exchange provide access on terms that are not unfairly discriminatory.[21] Including the cap on the number of additional Limited Service MEO Ports in the Fee Schedule unnecessarily burdens the Exchange from being able to adjust the connectivity and access to the Exchange's System in order to ensure that the Exchange is able to provide access [22] to Members on non-discriminatory terms and ensure sufficient capacity and headroom in the System. The Exchange constantly monitors the System's performance based on market conditions and needs to make adjustments based on customer demand. Adjusting the amount of available Limited Service MEO Ports does not change on a material basis the overall profitability of Limited Service MEO Ports. Any increase in revenue associated with adding more Limited Service MEO Ports is generally offset by the cost of purchasing and operating such new equipment and providing the services associated with Limited Service MEO Ports. When the Exchange provides fewer Limited Service MEO Ports, its overall expense is lower, but is generally offset by lower revenues associated with Limited Service MEO Ports. The Exchange's recent filing [23] to increase the number of additional Limited Service MEO Ports provides clear evidence of that fact. Accordingly, the Exchange's obligations under

[17] *See supra* note 12.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] *See supra* note 12.

Section 6(b)(5) of the Act [24] and market conditions are key drivers of the System's architecture and expansion and thus the Exchange believes a cap in the Fee Schedule is not an appropriate mechanism to govern access to the Exchange.

Other exchanges, like MIAX Pearl, are required to provide access and connectivity pursuant to the same requirements under Section 6(b)(5) of the Act regardless of whether a their rules or fee schedules set forth caps on access.[25] Further, the Exchange anticipates that it will continue to expand its System and provide Members and other market participants with additional access, including Limited Service MEO Ports, based on customer demand and in response to changing market conditions. The Exchange represents that any expansion or reduction in the number of additional Limited Service MEO Ports will be conducted in a similar manner that ensures fair access to its System.[26] The Exchange will also continuously assess its connectivity options and availability to ensure that they meet the needs of all market participants seeking to access the Exchange.

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because only Members that voluntarily purchase additional Limited Service MEO Ports will be charged the existing monthly fees per port, which has been unchanged since they were adopted in 2018.[27] The Exchange does not propose to amend the fees applicable to additional Limited Service MEO Ports, which were filed with the Commission and became effective after notice and public comment.[28] As stated above, the Exchange anticipates that in the future, it may provide more Limited Service MEO Ports due to customer demand and increased volatility in the marketplace, which will result in increased message traffic rates across the network.

The Exchange further believes its proposal is consistent with Section 6(b)(4) of the Act in that any time the Exchange makes available more Limited Service MEO Ports, such ports that are voluntarily purchased by Members will not result in the Exchange making a supracompetitive profit. The Exchange recently conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger (this includes over 150 separate and distinct expense items) to determine whether each such expense relates to additional Limited Service MEO Ports, and, if such expense did so relate, what portion (or percentage) of such expense actually supports additional Limited Service MEO Ports, and thus bears a relationship that is, ''in nature and closeness,'' directly related to those services.

To provide continuity with the Exchange's most recent filing to add two additional Limited Service MEO Ports [29] and this filing, the Exchange performed this cost review anticipating that Members may purchase two additional Limited Service MEO Ports.[30] The sum of all such portions of expenses represents the total cost of the Exchange to provide services associated with two additional Limited Service MEO Ports pursuant to this proposed rule change. Assuming the costs outlined in this proposal remain unchanged, the Exchange represents that the below cost and revenue analysis would continue to be true should the Exchange make additional Limited Service MEO Ports available beyond the analysis for two additional Limited Service MEO Ports discussed below.[31]

For the avoidance of doubt, none of the expenses included herein relating to the services associated with providing two additional Limited Service MEO Ports also relate to the provision of any other services offered by the Exchange. Stated differently, no expense amount of the Exchange is allocated twice. The Exchange notes that it made certain representations in a previous filing [32] regarding its expense allocation for the provision of network connectivity services. The Exchange represents that none of the expenses allocated to the provision of network connectivity services are also allocated to the provision of ports—that is, there is no overlap of any such expenses that are included in the costs associated with services the Exchange provides for connectivity and for the services the Exchange provides for ports.

Specifically, utilizing 2020 [33] expense figures, total third-party expense relating to fees paid by the Exchange to third-parties for certain products and services for the Exchange to be able to provide two additional Limited Service MEO Ports is approximately $11,611. This includes, but is not limited to, a portion of the fees paid to: (1) Equinix, for data center services, for the primary, secondary, and disaster recovery locations of the Exchange's trading system infrastructure; (2) Zayo Group Holdings, Inc. (''Zayo'') for network services (fiber and bandwidth products and services) linking the Exchange's office locations in Princeton, NJ and Miami, FL to all data center locations; (3) Secure Financial Transaction Infrastructure (''SFTI''),[34] which supports network feeds for the entire U.S. options industry; (4) various other services providers (including Thompson Reuters, NYSE, Nasdaq, and Internap), which provide content, network services, and infrastructure services for critical components of options network services; and (5) various other hardware and software providers (including Dell and Cisco, which support the production environment in which Members and non-Members connect to the network to trade, receive market data, etc.). For clarity, only a portion of all fees paid to such third-parties is included in the third-party expense herein, and no expense amount is allocated twice. Accordingly, the Exchange does not allocate its entire information technology and communication costs to the services associated with providing two additional Limited Service MEO Ports.

The Exchange believes it is reasonable to allocate such third-party expense described above towards the total cost to the Exchange to provide the services associated with two additional Limited Service MEO Ports. In particular, the Exchange believes it is reasonable to allocate the identified portion of the

[24] *See* 15 U.S.C. 78f(b).

[25] *Id.*

[26] *Id.*

[27] *See supra* note 11.

[28] *See id.*

[29] *See supra* note 12.

[30] The cost review in this proposal is based on two additional Limited Service MEO Ports because two additional Limited Service MEO Ports were purchased since the First Proposed Rule Change was submitted on April 12, 2021.

[31] As stated above, currently the number of available Limited Service MEO Ports does not change on a material basis the overall profitability of Limited Service MEO Ports; however, the Exchange represents that it will continue to monitor its costs and revenue analysis for material changes.

[32] *See* Securities Exchange Act Release No. 87876 (December 31, 2019), 85 FR 757 (January 7, 2020) (SR–PEARL–2019–36).

[33] The Exchange has not yet finalized its 2020 year-end results. The Exchange is utilizing year-end 2020 expenses because expenses incurred within 2021 have not yet been reviewed and full year 2021 expenses have not yet been fully projected. Therefore, the 2020 year-end expenses are the most accurate to date.

[34] In fact, on October 22, 2019, the Exchange was notified by SFTI that it is again raising its fees charged to the Exchange by approximately 11%, without having to show that such fee change complies with the Act by being reasonable, equitably allocated, and not unfairly discriminatory. It is unfathomable to the Exchange that, given the critical nature of the infrastructure services provided by SFTI, that its fees are not required to be rule-filed with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively.

Equinix expense because Equinix operates the data centers (primary, secondary, and disaster recovery) that host the Exchange's network infrastructure. This includes, among other things, the necessary storage space, which continues to expand and increase in cost, power to operate the network infrastructure, and cooling apparatuses to ensure the Exchange's network infrastructure maintains stability. Without these services from Equinix, the Exchange would not be able to operate and support the network and provide the services associated with two additional Limited Service MEO Ports to its Members and non-Members and their customers. The Exchange did not allocate all of the Equinix expense toward the cost of providing the services associated with two additional Limited Service MEO Ports, only that portion which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEO Ports, approximately 0.5% of the total Equinix expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEO Ports, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portion of the Zayo expense because Zayo provides the internet, fiber and bandwidth connections with respect to the network, linking the Exchange with its affiliates, MIAX and MIAX Emerald, as well as the data center and disaster recovery locations. As such, all of the trade data, including the billions of messages each day per exchange, flow through Zayo's infrastructure over the Exchange's network. Without these services from Zayo, the Exchange would not be able to operate and support the network and provide the services associated with two additional Limited Service MEO Ports. The Exchange did not allocate all of the Zayo expense toward the cost of providing the services associated with two additional Limited Service MEO Ports, only the portion which the Exchange identified as being specifically mapped to providing two additional Limited Service MEO Ports, approximately 0.4% of the total Zayo expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEO Ports, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portions of the SFTI expense and various other service providers' (including Thompson Reuters, NYSE, Nasdaq, and Internap) expense because those entities provide connectivity and feeds for the entire U.S. options industry, as well as the content, network services, and infrastructure services for critical components of the network. Without these services from SFTI and various other service providers, the Exchange would not be able to operate and support the network and provide access to its Members and non-Members and their customers. The Exchange did not allocate all of the SFTI and other service providers' expense toward the cost of providing the services associated with two additional Limited Service MEO Ports, only the portions which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEO Ports, approximately 0.5% of the total SFTI and other service providers' expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEO Ports.

The Exchange believes it is reasonable to allocate the identified portion of the other hardware and software provider expense because this includes costs for dedicated hardware licenses for switches and servers, as well as dedicated software licenses for security monitoring and reporting across the network. Without this hardware and software, the Exchange would not be able to operate and support the network and provide access to its Members and non-Members and their customers. The Exchange did not allocate all of the hardware and software provider expense toward the cost of providing the services associated with the two additional Limited Service MEO Ports, only the portions which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEO Ports, approximately 0.3% of the total hardware and software provider expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEO Ports.

For 2020, total projected internal expense relating to the internal costs of the Exchange to provide the services associated with two additional Limited Service MEO Ports is approximately $64,797. This includes, but is not limited to, costs associated with: (1) Employee compensation and benefits for full-time employees that support the services associated with providing two additional Limited Service MEO Ports, including staff in network operations, trading operations, development, system operations, business, as well as staff in general corporate departments (such as legal, regulatory, and finance) that support those employees and functions (including an increase as a result of the higher determinism project); (2) depreciation and amortization of hardware and software used to provide the services associated with two additional Limited Service MEO Ports, including equipment, servers, cabling, purchased software and internally developed software used in the production environment to support the network for trading; and (3) occupancy costs for leased office space for staff that provide the services associated with two additional Limited Service MEO Ports. The breakdown of these costs is more fully-described below. For clarity, only a portion of all such internal expenses are included in the internal expense herein, and no expense amount is allocated twice. Accordingly, the Exchange does not allocate its entire costs contained in those items to the services associated with providing two additional Limited Service MEO Ports.

The Exchange believes it is reasonable to allocate such internal expense described above towards the total cost to the Exchange to provide the services associated with two additional Limited Service MEO Ports. In particular, the Exchange's employee compensation and benefits expense relating to providing the services associated with two additional Limited Service MEO Ports is approximately $50,553, which is only a portion of the $8,425,565 total projected expense for employee compensation and benefits. The Exchange believes it is reasonable to allocate the identified portion of such expense because this includes the time spent by employees of several departments, including Technology, Back Office, Systems Operations, Networking, Business Strategy Development (who create the business requirement documents that the Technology staff use to develop network features and enhancements), Trade Operations, Finance (who provide billing and accounting services relating to the network), and Legal (who provide legal services relating to the network, such as rule filings and various license agreements and other contracts). As part of the extensive cost review conducted by the Exchange, the Exchange reviewed the amount of time spent by each employee on matters relating to the provision of services associated with two additional Limited Service MEO

Ports. Without these employees, the Exchange would not be able to provide the services associated with two additional Limited Service MEO Ports to its Members and non-Members and their customers. The Exchange did not allocate all of the employee compensation and benefits expense toward the cost of the services associated with providing two additional Limited Service MEO Ports, only the portions which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEO Ports, approximately 0.6% of the total employee compensation and benefits expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEO Ports, and not any other service, as supported by its cost review.

The Exchange's depreciation and amortization expense relating to providing the services associated with two additional Limited Service MEO Ports is approximately $12,779, which is only a portion of the $2,555,832 total projected expense for depreciation and amortization. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network and provide the services associated with two additional Limited Service MEO Ports. Without this equipment, the Exchange would not be able to operate the network and provide the services associated with two additional Limited Service MEO Ports to its Members and non-Members and their customers. The Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing the services associated with two additional Limited Service MEO Ports, only the portion which the Exchange identified as being specifically mapped to providing the services associated with the two additional Limited Service MEO Ports, approximately 0.5% of the total depreciation and amortization expense, as these services would not be possible without relying on such equipment. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEO Ports, and not any other service, as supported by its cost review.

The Exchange's occupancy expense relating to providing the services associated with providing two additional Limited Service MEO Ports is approximately $1,465, which is only a portion of the $366,245 total projected expense for occupancy. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense represents the portion of the Exchange's cost to rent and maintain a physical location for the Exchange's staff who operate and support the network, including providing the services associated with two additional Limited Service MEO Ports. This amount consists primarily of rent for the Exchange's Princeton, NJ office, as well as various related costs, such as physical security, property management fees, property taxes, and utilities. The Exchange operates its Network Operations Center (''NOC'') and Security Operations Center (''SOC'') from its Princeton, New Jersey office location. A centralized office space is required to house the staff that operates and supports the network. The Exchange currently has approximately 160 employees. Approximately two-thirds of the Exchange's staff are in the Technology department, and the majority of those staff have some role in the operation and performance of the services associated with providing additional Limited Service MEO Ports. Without this office space, the Exchange would not be able to operate and support the network and provide the services associated with two additional Limited Service MEO Ports to its Members and non-Members and their customers. Accordingly, the Exchange believes it is reasonable to allocate the identified portion of its occupancy expense because such amount represents the Exchange's actual cost to house the equipment and personnel who operate and support the Exchange's network infrastructure and the services associated with two additional Limited Service MEO Ports. The Exchange did not allocate all of the occupancy expense toward the cost of providing the services associated with two additional Limited Service MEO Ports, only the portion which the Exchange identified as being specifically mapped to operating and supporting the network, approximately 0.4% of the total occupancy expense. The Exchange believes this allocation is reasonable because it represents the Exchange's cost to provide the services associated with two additional Limited Service MEO Ports, and not any other service, as supported by its cost review. Accordingly, based on the facts and circumstances presented, the Exchange believes that its provision of the services associated with two additional Limited Service MEO Ports will not result in excessive pricing or supra-competitive profit.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to allocate the respective percentages of each expense category described above towards the total cost to the Exchange of operating and supporting the network, including providing the services associated with two additional Limited Service MEO Ports because the Exchange performed a line-by-line item analysis of all the expenses of the Exchange, and has determined the expenses that directly relate to operation and support of the network. Further, the Exchange notes that, without the specific third-party and internal items listed above, the Exchange would not be able to operate and support the network, including providing the services associated with two additional Limited Service MEO Ports to its Members and non-Members and their customers. Each of these expense items, including physical hardware, software, employee compensation and benefits, occupancy costs, and the depreciation and amortization of equipment, have been identified through a line-by-line item analysis to be integral to the operation and support of the network.

To provide continuity with the Exchange's most recent filing to add two additional Limited Service MEO Ports [35] and this filing, the Exchange is basing its projected revenue from additional Limited Service MEO Ports that may be purchased by Members as though seven Members purchased two additional Limited Service MEO Ports each. The Exchange notes that any time it needs to expand its network by making available two additional Limit Service MEO Ports due to increased customer demand and increased volatility in the marketplace, which translates into increased message traffic rates across the network, there is an initial build out cost. The cost to expand the network in this manner is greater than the revenue the Exchange anticipates the additional Limited Service MEO Ports will generate. Specifically, the Exchange estimates it will incur a one-time cost of approximately $175,000 in capital expenditures (''CapEx'') on hardware, software, and other items to expand the network to make available two additional Limited Service MEO Ports.

[35] *See supra* note 12.

This estimated cost also includes expense associated with providing the necessary engineering and support personnel to transition those Members who wish to acquire two additional Limited Service MEO Ports. Further, the Exchange projects that the annualized revenue from the two additional Limited Service MEO Ports will be approximately $67,200 (assuming seven Members purchase the two additional Limited Service MEO Ports). Therefore, the Exchange's upfront cost in expanding its network to provide its Members with two additional Limited Service MEO Ports—approximately $175,000—is significant relative to the anticipated annualized revenue the Exchange expects to bring in from two additional Limited Service MEO Ports—approximately $67,200. Further, the Exchange anticipates it will incur approximately $76,408 in annualized ongoing operating expense (''OpEx'') in order to support the expanded network and two additional Limited Service MEO Ports. Thus, even excluding the upfront CapEx of $175,000, the Exchange is not generating a supra-competitive profit from the provision of two additional Limited Service MEO Ports. In fact, even excluding the one-time CapEx cost of $175,000, the Exchange anticipates generating an annual loss from the provision of two additional Limited Service MEO Ports of ($9,208)—that is, $67,200 in revenue minus $76,408 in expense equates to a loss of ($9,208) to support the additional ports annually.

The Exchange also notes that no other exchange has a similar cap on the amount of ports that firms can purchase in their rulebooks or fee schedules and those exchanges have the same requirements under Section 6(b)(5) of the Exchange Act [36] as MIAX Pearl.[37]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change will not impose a burden on competition but will benefit competition by enhancing the Exchange's ability to compete by providing additional services to market participants. It is not intended to address a competitive issue. Rather, the proposal is intended to allow the Exchange to increase its inventory of MEO Ports to meet increased Member demand and increased message traffic resulting from greater marketplace volatility. The Exchange also does not believe that the proposed rule change will impose a burden on intramarket competition because additional Limited Service MEO Ports are available to all Members on an equal basis. It is a business decision of each Member whether to pay for the additional Limited Service MEO Ports.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[38] and Rule 19b–4(f)(2) [39] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2021–23 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–PEARL–2021–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2021–23 and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10380 Filed 5–17–21; 8:45 am]

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[36] 15 U.S.C. 78f(b)(5).

[37] *See supra* note 14.

[38] 15 U.S.C. 78s(b)(3)(A)(ii).

[39] 17 CFR 240.19b–4(f)(2).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91857; File No. SR–MIAX–2021–19]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Remove the Cap on the Number of Additional Limited Service Ports Available to Market Makers

May 12, 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 May 10, 2021, Miami International Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to remove the cap on the number of additional Limited Service MIAX Express Interface (''MEI'') Ports (defined below) available to Market Makers.[3] The Exchange does not propose to amend the fees for additional Limited Service MEI Ports.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delete footnote 30 of Section 5)d)ii) of the Fee Schedule to remove the cap on the number of additional Limited Service MEI Ports available to Market Makers. The Exchange does not propose to amend the fees charged for any additional Limited Service MEI Ports purchased by Market Makers.

The Exchange initially filed this proposal to remove the cap on the number of additional Limited Service MEI Ports available to Market Makers on April 9, 2021.[4] On April 12, 2021, the Exchange withdrew the First Proposed Rule Change and refiled this proposal to make a technical correction.[5] On April 22, 2021, the Exchange withdrew the Second Proposed Rule Change and refiled this proposal (without increasing the actual fee amounts) to provide further clarification regarding the Exchange's revenues, costs, and profitability any time more Limited Service MEI Ports become available, in general, (including information regarding the Exchange's methodology for determining the costs and revenues for additional Limited Service MEI Ports).[6] On May 3, 2021, the Exchange withdrew the Third Proposed Rule Change and refiled this proposal to further clarify its cost methodology.[7] On May 10, 2021, the Exchange withdrew the Fourth Proposed Rule Change and refiled this proposal.

Currently, the Exchange assesses monthly MEI Port Fees on Market Makers based upon the number of MIAX matching engines [8] used by the Market Maker. The Exchange allocates two (2) Full Service MEI Ports [9] and two (2) Limited Service MEI Ports [10] per matching engine to which each Market Maker connects. The Full Service MEI Ports, Limited Service MEI Ports and the additional Limited Service MEI Ports all include access to the Exchange's primary and secondary data centers and its disaster recovery center. Market Makers may request additional Limited Service MEI Ports for which they are assessed the existing $100 monthly fee for each additional port they request. This fee has been unchanged since 2016.[11]

The Exchange originally added the Limited Service MEI Ports to enhance the MEI Port connectivity available to Market Makers, and subsequently made additional Limited Service MEI Ports available to Market Makers.[12] Limited Service MEI Ports have been well received by Market Makers since their addition. Market Makers are currently limited to purchasing eight (8) additional Limited Service MEI Ports per matching engine, for a total of ten (10) per matching engine.[13]

The Exchange now proposes to delete footnote 30 in Section 5)d)ii) of the Fee Schedule to remove the cap on the number of additional Limited Service MEI Ports that are available to Market Makers. The Exchange notes that no other exchange provides similar caps concerning connectivity and access in their rulebooks or fee schedules.[14] Including the cap on the number of additional Limited Service MEI Ports in the Fee Schedule unnecessarily hampers the Exchange's ability to adjust access to the Exchange's network in order to ensure that the Exchange meets its obligations under the Act such that access to the Exchange is offered on

[3] The term ''Market Makers'' refers to Lead Market Makers (''LMMs''), Primary Lead Market Makers (''PLMMs''), and Registered Market Makers (''RMMs'') collectively. *See* Exchange Rule 100.

[4] *See* SR–MIAX–2021–10 (the ''First Proposed Rule Change'').

[5] *See* SR–MIAX–2021–11 (the ''Second Proposed Rule Change'').

[6] *See* SR–MIAX–2021–15 (the ''Third Proposed Rule Change'').

[7] *See* SR–MIAX–2021–17 (the ''Fourth Proposed Rule Change'').

[8] A ''matching engine'' is a part of the MIAX electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines. *See* Fee Schedule, Section 5)d)ii), note 29.

[9] Full Service MEI Ports provide Market Makers with the ability to send Market Maker quotes, eQuotes, and quote purge messages to the MIAX System. Full Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per matching engine. *See* Fee Schedule, Section 5)d)ii), note 27.

[10] Limited Service MEI Ports provide Market Makers with the ability to send eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAX System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers initially receive two Limited Service MEI Ports per matching engine. *See* Fee Schedule, Section 5)d)ii), note 28.

[11] *See* Securities Exchange Act Release No. 79666 (December 22, 2016), 81 FR 96133 (December 29, 2016) (SR–MIAX–2016–47).

[12] *See* Securities Exchange Act Release Nos. 70137 (August 8, 2013), 78 FR 49586 (August 14, 2013) (SR–MIAX–2013–39); 70903 (November 20, 2013), 78 FR 70615 (November 26, 2013) (SR–MIAX–2013–52); 78950 (September 27, 2016), 81 FR 68084 (October 3, 2016) (SR–MIAX–2016–33); and 79198 (October 31, 2016), 81 FR 76988 (November 4, 2016) (SR–MIAX–2016–37); 90811 (December 29, 2020), 86 FR 344 (January 5, 2021) (SR–MIAX–2020–41).

[13] *See* Fee Schedule, Section 5)d)ii).

[14] *See* Cboe Exchange, Inc. Fee Schedule, available at *https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf;* Cboe BZX Exchange, Inc. Options Fee Schedule, available at *https://www.cboe.com/us/options/membership/fee_schedule/bzx/;* Cboe C2 Exchange, Inc. Fee Schedule, available at *https://www.cboe.com/us/options/membership/fee_schedule/ctwo/;* Cboe EDGX Exchange, Inc. Options Fee Schedule, available at *https://www.cboe.com/us/options/membership/fee_schedule/edgx/;* The Nasdaq Stock Market LLC Options Fee Schedule, available at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207;* Nasdaq PHLX LLC Options Fee Schedule, available at *https://listingcenter.nasdaq.com/rulebook/phlx/rules/Phlx%20Options%207;* NYSE Arca, Inc. Options Fee Schedule, available at *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf;* NYSE American LLC Options Fee Schedule, available at *https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

terms that are not unfairly discriminatory [15] among its Members,[16] as well as to ensure sufficient capacity and headroom in the System.[17] The Exchange monitors the System's performance and makes adjustments to its System based on market conditions and Member demand. Accordingly, the Exchange's obligations under the Act to provide access on terms that are not unfairly discriminatory and market conditions are key drivers of the System's architecture and expansion. Thus the Exchange believes a cap in the Fee Schedule is inconsistent with other exchanges access offerings and not an appropriate mechanism to govern access to the Exchange.

The Exchange also notes that adjusting the amount of available Limited Service MEI Ports does not change on a material basis the overall profitability of Limited Service MEI Ports. Any increase in revenue associated with adding more Limited Service MEI Ports is generally offset by the cost of purchasing and operating such new equipment and providing the services associated with Limited Service MEI Ports. When the Exchange provides fewer Limited Service MEI Ports, its overall expense is lower, but is generally offset by lower revenues associated with Limited Service MEI Ports. The Exchange's recent filing [18] to increase the number of additional Limited Service MEI Ports provides clear evidence of that fact.

All fees related to MEI Ports shall remain unchanged and Market Makers that voluntarily purchase additional Limited Service MEI Ports will remain subject to the existing $100 monthly fee per port.

The Exchange also proposes to make corresponding changes to footnotes 31 and 32 in Sections 5)d)ii) and 5)d)iv) of the Fee Schedule, respectively, in light of the Exchange's proposal to delete current footnote 30. Accordingly, with the proposed changes, footnote 31 will be changed to footnote 30 and footnote 32 will be changed to footnote 31.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [19] in general, and furthers the objectives of Section 6(b)(5) of the Act [20] in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act [21] because the proposal to remove the cap on the number of additional Limited Service MEI Ports available to Market Makers will apply equally to all Market Makers, regardless of type or size, and will allow the Exchange to offer access to its System on terms that are not unfairly discriminatory. The Exchange does not propose to change the amount of fees charged for additional Limited Service MEI Ports. The existing fee of $100 per month will apply equally to all Market Makers that choose to purchase additional Limited Service MEI Ports, which is a business decision of each Market Maker and not a requirement of the Exchange.

The Exchange believes that its proposal is consistent with the requirements under Section 6(b)(5) of the Exchange Act that the Exchange provide access on terms that are not unfairly discriminatory.[22] Including the cap on the number of additional Limited Service MEI Ports in the Fee Schedule unnecessarily burdens the Exchange from being able to adjust the connectivity and access to the Exchange's System in order to ensure that the Exchange is able to provide access [23] to Members on non-discriminatory terms and ensure sufficient capacity and headroom in the System. The Exchange constantly monitors the System's performance based on market conditions and needs to make adjustments based on customer demand. Adjusting the amount of available Limited Service MEI Ports does not change on a material basis the overall profitability of Limited Service MEI Ports. Any increase in revenue associated with adding more Limited Service MEI Ports is generally offset by the cost of purchasing and operating such new equipment and providing the services associated with Limited Service MEI Ports. When the Exchange provides fewer Limited Service MEI Ports, its overall expense is lower, but is generally offset by lower revenues associated with Limited Service MEI Ports. The Exchange's recent filing [24] to increase the number of additional Limited Service MEI Ports provides clear evidence of that fact. Accordingly, the Exchange's obligations under Section 6(b)(5) of the Act [25] and market conditions are key drivers of the System's architecture and expansion and thus the Exchange believes a cap in the Fee Schedule is not an appropriate mechanism to govern access to the Exchange.

Other exchanges, like MIAX, are required to provide access and connectivity pursuant to the same requirements under Section 6(b)(5) of the Act regardless of whether a their rules or fee schedules set forth caps on access.[26] Further, the Exchange anticipates that it will continue to expand its System and provide Market Makers and other market participants with additional access, including Limited Service MEI Ports, based on customer demand and in response to changing market conditions. The Exchange represents that any expansion or reduction in the number of additional Limited Service MEI Ports will be conducted in a similar manner that ensures fair access to its System.[27] The Exchange will also continuously assess its connectivity options and availability to ensure that they meet the needs of all market participants seeking to access the Exchange.

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because only Market Makers that voluntarily purchase additional Limited Service MEI Ports will be charged the existing $100 monthly fee per port, which has been unchanged since 2016.[28] The Exchange does not propose to amend the fees applicable to additional Limited Service MEI Ports, which were filed with the Commission and became effective after notice and public comment.[29] As stated above, the Exchange anticipates that in the future, it may provide more Limited Service MEI Ports due to customer demand and increased volatility in the marketplace, which will result in increased message traffic rates across the network.

The Exchange further believes its proposal is consistent with Section 6(b)(4) of the Act in that any time the

[15] *See* 15 U.S.C. 78f(b)(5).

[16] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[17] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[18] *See* Securities Exchange Act Release No. 90811 (December 29, 2020), 86 FR 344 (January 5, 2021) (SR–MIAX–2020–41) (the ''Cost Analysis Filing'').

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *See supra* note 18.

[25] *See* 15 U.S.C. 78f(b).

[26] *Id.*

[27] *Id.*

[28] *See supra* note 11.

[29] *See supra* notes 11 and 12.

Exchange makes available more Limited Service MEI Ports, such ports that are voluntarily purchased by Market Makers will not result in the Exchange making a supracompetitive profit. The Exchange recently conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger (this includes over 150 separate and distinct expense items) to determine whether each such expense relates to additional Limited Service MEI Ports, and, if such expense did so relate, what portion (or percentage) of such expense actually supports additional Limited Service MEI Ports, and thus bears a relationship that is, ''in nature and closeness,'' directly related to those services.

To provide continuity with the Exchange's most recent filing to add two additional Limited Service MEI Ports [30] and this filing, the Exchange performed this cost review anticipating that Market Makers may purchase two additional Limited Service MEI Ports.[31] The sum of all such portions of expenses represents the total cost of the Exchange to provide services associated with two additional Limited Service MEI Ports pursuant to this proposed rule change. Assuming the costs outlined in this proposal remain unchanged, the Exchange represents that the below cost and revenue analysis would continue to be true should the Exchange make additional Limited Service MEI Ports available beyond the analysis for two additional Limited Service MEI Ports discussed below.[32]

For the avoidance of doubt, none of the expenses included herein relating to the services associated with providing two additional Limited Service MEI Ports also relate to the provision of any other services offered by the Exchange. Stated differently, no expense amount of the Exchange is allocated twice. The Exchange notes that it made certain representations in a previous filing [33] regarding its expense allocation for the provision of network connectivity services. The Exchange represents that none of the expenses allocated to the provision of network connectivity services are also allocated to the provision of ports—that is, there is no overlap of any such expenses that are included in the costs associated with services the Exchange provides for connectivity and for the services the Exchange provides for ports.

Specifically, utilizing 2020 [34] expense figures, total third-party expense relating to fees paid by the Exchange to third-parties for certain products and services for the Exchange to be able to provide two additional Limited Service MEI Ports is approximately $12,537. This includes, but is not limited to, a portion of the fees paid to: (1) Equinix, for data center services, for the primary, secondary, and disaster recovery locations of the Exchange's trading system infrastructure; (2) Zayo Group Holdings, Inc. (''Zayo'') for network services (fiber and bandwidth products and services) linking the Exchange's office locations in Princeton, NJ and Miami, FL to all data center locations; (3) Secure Financial Transaction Infrastructure (''SFTI''),[35] which supports network feeds for the entire U.S. options industry; (4) various other services providers (including Thompson Reuters, NYSE, Nasdaq, and Internap), which provide content, network services, and infrastructure services for critical components of options network services; and (5) various other hardware and software providers (including Dell and Cisco, which support the production environment in which Members and non-Members connect to the network to trade, receive market data, etc.). For clarity, only a portion of all fees paid to such third-parties is included in the third-party expense herein, and no expense amount is allocated twice. Accordingly, the Exchange does not allocate its entire information technology and communication costs to the services associated with providing two additional Limited Service MEI Ports.

The Exchange believes it is reasonable to allocate such third-party expense described above towards the total cost to the Exchange to provide the services associated with two additional Limited Service MEI Ports. In particular, the Exchange believes it is reasonable to allocate the identified portion of the Equinix expense because Equinix operates the data centers (primary, secondary, and disaster recovery) that host the Exchange's network infrastructure. This includes, among other things, the necessary storage space, which continues to expand and increase in cost, power to operate the network infrastructure, and cooling apparatuses to ensure the Exchange's network infrastructure maintains stability. Without these services from Equinix, the Exchange would not be able to operate and support the network and provide the services associated with two additional Limited Service MEI Ports to its Members and non-Members and their customers. The Exchange did not allocate all of the Equinix expense toward the cost of providing the services associated with two additional Limited Service MEI Ports, only that portion which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEI Ports, approximately 0.5% of the total Equinix expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEI Ports, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portion of the Zayo expense because Zayo provides the internet, fiber and bandwidth connections with respect to the network, linking the Exchange with its affiliates, MIAX Pearl and MIAX Emerald, as well as the data center and disaster recovery locations. As such, all of the trade data, including the billions of messages each day per exchange, flow through Zayo's infrastructure over the Exchange's network. Without these services from Zayo, the Exchange would not be able to operate and support the network and provide the services associated with two additional Limited Service MEI Ports. The Exchange did not allocate all of the Zayo expense toward the cost of providing the services associated with two additional Limited Service MEI Ports, only the portion which the Exchange identified as being specifically mapped to providing two additional Limited Service MEI Ports, approximately 0.4% of the total Zayo expense. The Exchange believes this allocation is reasonable because it

[30] *See supra* note 18.

[31] The cost review in this proposal is based on two additional Limited Service MEI Ports because two additional Limited Service MEI Ports were purchased since the First Proposed Rule Change was submitted on April 12, 2021.

[32] As stated above, currently the number of available Limited Service MEI Ports does not change on a material basis the overall profitability of Limited Service MEI Ports; however, the Exchange represents that it will continue to monitor its costs and revenue analysis for material changes.

[33] *See* Securities Exchange Act Release No. 87875 (December 31, 2019), 85 FR 770 (January 7, 2020) (SR–MIAX–2019–51).

[34] The Exchange is utilizing year-end 2020 expenses because expenses incurred within 2021 have not yet been reviewed and full year 2021 expenses have not yet been fully projected. Therefore, the 2020 year-end expenses are the most accurate to date.

[35] In fact, on October 22, 2019, the Exchange was notified by SFTI that it is again raising its fees charged to the Exchange by approximately 11%, without having to show that such fee change complies with the Act by being reasonable, equitably allocated, and not unfairly discriminatory. It is unfathomable to the Exchange that, given the critical nature of the infrastructure services provided by SFTI, that its fees are not required to be rule-filed with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively.

represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEI Ports, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portions of the SFTI expense and various other service providers' (including Thompson Reuters, NYSE, Nasdaq, and Internap) expense because those entities provide connectivity and feeds for the entire U.S. options industry, as well as the content, network services, and infrastructure services for critical components of the network. Without these services from SFTI and various other service providers, the Exchange would not be able to operate and support the network and provide access to its Members and non-Members and their customers. The Exchange did not allocate all of the SFTI and other service providers' expense toward the cost of providing the services associated with two additional Limited Service MEI Ports, only the portions which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEI Ports, approximately 0.5% of the total SFTI and other service providers' expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEI Ports.

The Exchange believes it is reasonable to allocate the identified portion of the other hardware and software provider expense because this includes costs for dedicated hardware licenses for switches and servers, as well as dedicated software licenses for security monitoring and reporting across the network. Without this hardware and software, the Exchange would not be able to operate and support the network and provide access to its Members and non-Members and their customers. The Exchange did not allocate all of the hardware and software provider expense toward the cost of providing the services associated with the two additional Limited Service MEI Ports, only the portions which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEI Ports, approximately 0.3% of the total hardware and software provider expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEI Ports.

For 2020, total projected internal expense relating to the internal costs of the Exchange to provide the services associated with two additional Limited Service MEI Ports is approximately $91,291. This includes, but is not limited to, costs associated with: (1) Employee compensation and benefits for full-time employees that support the services associated with providing two additional Limited Service MEI Ports, including staff in network operations, trading operations, development, system operations, business, as well as staff in general corporate departments (such as legal, regulatory, and finance) that support those employees and functions (including an increase as a result of the higher determinism project); (2) depreciation and amortization of hardware and software used to provide the services associated with two additional Limited Service MEI Ports, including equipment, servers, cabling, purchased software and internally developed software used in the production environment to support the network for trading; and (3) occupancy costs for leased office space for staff that provide the services associated with two additional Limited Service MEI Ports. The breakdown of these costs is more fully-described below. For clarity, only a portion of all such internal expenses are included in the internal expense herein, and no expense amount is allocated twice. Accordingly, the Exchange does not allocate its entire costs contained in those items to the services associated with providing two additional Limited Service MEI Ports.

The Exchange believes it is reasonable to allocate such internal expense described above towards the total cost to the Exchange to provide the services associated with two additional Limited Service MEI Ports. In particular, the Exchange's employee compensation and benefits expense relating to providing the services associated with two additional Limited Service MEI Ports is approximately $65,434, which is only a portion of the $10,905,680 total projected expense for employee compensation and benefits. The Exchange believes it is reasonable to allocate the identified portion of such expense because this includes the time spent by employees of several departments, including Technology, Back Office, Systems Operations, Networking, Business Strategy Development (who create the business requirement documents that the Technology staff use to develop network features and enhancements), Trade Operations, Finance (who provide billing and accounting services relating to the network), and Legal (who provide legal services relating to the network, such as rule filings and various license agreements and other contracts). As part of the extensive cost review conducted by the Exchange, the Exchange reviewed the amount of time spent by each employee on matters relating to the provision of services associated with two additional Limited Service MEI Ports. Without these employees, the Exchange would not be able to provide the services associated with two additional Limited Service MEI Ports to its Members and non-Members and their customers. The Exchange did not allocate all of the employee compensation and benefits expense toward the cost of the services associated with providing two additional Limited Service MEI Ports, only the portions which the Exchange identified as being specifically mapped to providing the services associated with two additional Limited Service MEI Ports, approximately 0.6% of the total employee compensation and benefits expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEI Ports, and not any other service, as supported by its cost review.

The Exchange's depreciation and amortization expense relating to providing the services associated with two additional Limited Service MEI Ports is approximately $23,937, which is only a portion of the $4,787,419 total projected expense for depreciation and amortization. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network and provide the services associated with two additional Limited Service MEI Ports. Without this equipment, the Exchange would not be able to operate the network and provide the services associated with two additional Limited Service MEI Ports to its Members and non-Members and their customers. The Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing the services associated with two additional Limited Service MEI Ports, only the portion which the Exchange identified as being specifically mapped to providing the services associated with the two additional Limited Service MEI Ports, approximately 0.5% of the total

depreciation and amortization expense, as these services would not be possible without relying on such equipment. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the services associated with two additional Limited Service MEI Ports, and not any other service, as supported by its cost review.

The Exchange's occupancy expense relating to providing the services associated with providing two additional Limited Service MEI Ports is approximately $1,920, which is only a portion of the $480,036 total projected expense for occupancy. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense represents the portion of the Exchange's cost to rent and maintain a physical location for the Exchange's staff who operate and support the network, including providing the services associated with two additional Limited Service MEI Ports. This amount consists primarily of rent for the Exchange's Princeton, NJ office, as well as various related costs, such as physical security, property management fees, property taxes, and utilities. The Exchange operates its Network Operations Center (''NOC'') and Security Operations Center (''SOC'') from its Princeton, New Jersey office location. A centralized office space is required to house the staff that operates and supports the network. The Exchange currently has approximately 160 employees. Approximately two-thirds of the Exchange's staff are in the Technology department, and the majority of those staff have some role in the operation and performance of the services associated with providing additional Limited Service MEI Ports. Without this office space, the Exchange would not be able to operate and support the network and provide the services associated with two additional Limited Service MEI Ports to its Members and non-Members and their customers. Accordingly, the Exchange believes it is reasonable to allocate the identified portion of its occupancy expense because such amount represents the Exchange's actual cost to house the equipment and personnel who operate and support the Exchange's network infrastructure and the services associated with two additional Limited Service MEI Ports. The Exchange did not allocate all of the occupancy expense toward the cost of providing the services associated with two additional Limited Service MEI Ports, only the portion which the Exchange identified as being specifically mapped to operating and supporting the network, approximately 0.4% of the total occupancy expense. The Exchange believes this allocation is reasonable because it represents the Exchange's cost to provide the services associated with two additional Limited Service MEI Ports, and not any other service, as supported by its cost review. Accordingly, based on the facts and circumstances presented, the Exchange believes that its provision of the services associated with two additional Limited Service MEI Ports will not result in excessive pricing or supra-competitive profit.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to allocate the respective percentages of each expense category described above towards the total cost to the Exchange of operating and supporting the network, including providing the services associated with two additional Limited Service MEI Ports because the Exchange performed a line-by-line item analysis of all the expenses of the Exchange, and has determined the expenses that directly relate to operation and support of the network. Further, the Exchange notes that, without the specific third-party and internal items listed above, the Exchange would not be able to operate and support the network, including providing the services associated with two additional Limited Service MEI Ports to its Members and non-Members and their customers. Each of these expense items, including physical hardware, software, employee compensation and benefits, occupancy costs, and the depreciation and amortization of equipment, have been identified through a line-by-line item analysis to be integral to the operation and support of the network.

To provide continuity with the Exchange's most recent filing to add two additional Limited Service MEI Ports [36] and this filing, the Exchange is basing its projected revenue from additional Limited Service MEI Ports that may be purchased by Market Makers as though seven Market Makers purchased two additional Limited Service MEI Ports each. The Exchange notes that any time it needs to expand its network by making available two additional Limit Service MEI Ports due to increased customer demand and increased volatility in the marketplace, which translates into increased message traffic rates across the network, there is an initial build out cost. The cost to expand the network in this manner is greater than the revenue the Exchange anticipates the additional Limited Service MEI Ports will generate. Specifically, the Exchange estimates it will incur a one-time cost of approximately $175,000 in capital expenditures (''CapEx'') on hardware, software, and other items to expand the network to make available two additional Limited Service MEI Ports. This estimated cost also includes expense associated with providing the necessary engineering and support personnel to transition those Market Makers who wish to acquire two additional Limited Service MEI Ports. Further, the Exchange projects that the annualized revenue from the two additional Limited Service MEI Ports will be approximately $16,800 (assuming seven Market Makers purchase the two additional Limited Service MEI Ports). Therefore, the Exchange's upfront cost in expanding its network to provide its Members with two additional Limited Service MEI Ports—approximately $175,000—is significant relative to the anticipated annualized revenue the Exchange expects to bring in from two additional Limited Service MEI Ports—approximately $16,800. Further, the Exchange anticipates it will incur approximately $103,828 in annualized ongoing operating expense (''OpEx'') in order to support the expanded network and two additional Limited Service MEI Ports. Thus, even excluding the upfront CapEx of $175,000, the Exchange is not generating a supra-competitive profit from the provision of two additional Limited Service MEI Ports. In fact, even excluding the one-time CapEx cost of $175,000, the Exchange anticipates generating an annual loss from the provision of two additional Limited Service MEI Ports of ($87,028)—that is, $16,800 in revenue minus $103,828 in expense equates to a loss of ($87,028) to support the additional ports annually.

The Exchange also notes that no other exchange has a similar cap on the amount of ports that firms can purchase in their rulebooks or fee schedules and those exchanges have the same requirements under Section 6(b)(5) of the Exchange Act [37] as MIAX.[38]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change will not impose a burden on competition but

[36] *See supra* note 18.

[37] 15 U.S.C. 78f(b)(5).

[38] *See supra* note 14.

will benefit competition by enhancing the Exchange's ability to compete by providing additional services to market participants. It is not intended to address a competitive issue. Rather, the proposal is intended to allow the Exchange to increase its inventory of MEI Ports to meet increased Member demand and increased message traffic resulting from greater marketplace volatility. The Exchange also does not believe that the proposed rule change will impose a burden on intramarket competition because additional Limited Service MEI Ports are available to all Market Makers on an equal basis. It is a business decision of each Market Maker whether to pay for the additional Limited Service MEI Ports.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[39] and Rule 19b–4(f)(2)[40] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2021–19 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–2021–19. 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–2021–19 and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

J. Matthew DeLesDernier,

Assistant Secretary.

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[39] 15 U.S.C. 78s(b)(3)(A)(ii).

[40] 17 CFR 240.19b–4(f)(2).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91863; File No. SR–NYSENAT–2021–13]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Continue Offering Certain Connectivity Services That Have Been Suspended by the Securities and Exchange Commission

May 12, 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 May 7, 2021, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to continue offering certain connectivity services that have been suspended by the Securities and Exchange Commission (''Commission'') at no charge, for a period of 14 days, in order to provide affected Users time to acquire substitute services before their connectivity is terminated. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 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 continue offering certain connectivity services that have been suspended by the Commission at no charge, for a period of 14 days, in order to provide affected Users [3] time to acquire substitute services before their connectivity is terminated.

As background, on March 10, 2021, the Exchange filed with the Commission a proposed rule change for immediate effectiveness (the ''Filing'') that amended the colocation services offered by the Exchange to provide Users the option to access to the systems and data feeds of various additional third parties.[4] The proposed rule change became operative on April 9, 2021. Since then, five Users have contracted to receive the services that were added in the Filing.

On May 7, 2021, the Commission suspended the Filing and instituted proceedings to determine whether the proposed rule change should be approved or disapproved.[5] Such action suspended the Exchange's ability to offer access to Third Party Systems from Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade, and to offer connectivity to Third Party Data Feeds from ICE Data Services—ICE TMC, Members Exchange, MIAX Emerald, and MIAX PEARL Equities (together, the ''Suspended Services'').

The Commission's suspension of such services is likely to cause disruption to the current Users of such services, who must now acquire substitutes for the Suspended Services. As an accommodation to such current Users, the Exchange now proposes to provide the Suspended Services to all Users, at no charge, for a period of 14 days from the date of filing (''Transition Period''), to enable current Users to maintain their connectivity while establishing alternate connectivity.

Specifically, the Exchange proposes to amend its Fee Schedule relating to colocation to provide:

Connectivity to Suspended Third Party Systems and Suspended Third Party Data Feeds

Connectivity to the Third Party Systems and Third Party Data Feeds listed below (''Suspended Services'') is available until May 24, 2021 (''Transition Period''). During the Transition Period, the Exchange will not charge any fees for the Suspended Services. At the conclusion of the Transition Period, any remaining customers of Suspended Services will have their Suspended Services terminated.

Suspended Third Party Systems:
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities
Morgan Stanley
TD Ameritrade
Suspended Third Party Data Feeds:
ICE Data Services—ICE TMC
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities

Application and Impact of the Proposed Changes

The proposed rule change would apply to all Users, each of which would be eligible to receive the Suspended Services, at no charge, for a period of up to 14 days.

Competitive Environment

The proposed changes are not intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and would further the protection of investors and the public interest. Without the proposed rule change, the Suspended Services would be terminated immediately, leaving the current Users without access and connectivity to the Suspended Services. As a result, the Commission's suspension of the services at issue is likely to cause disruption to the current Users of the Suspended Services, who must now acquire substitute services. The Exchange's proposal to provide the Suspended Services, at no charge, to all Users during the Transition Period would give such current Users an opportunity to transition to substitute services without a gap in their service, which would mitigate the disruption and lessen the burden on such current Users.

Further, the Exchange believes that providing a 14-day Transition Period would remove impediments to and perfect the mechanism of a free and open market and a national market system and would protect investors and the public interest. Current Users that wish to replace the Suspended Services will have to investigate their other options, negotiate new terms, and establish and test their new connections. The proposed Transition Period gives current Users time to complete all the steps required to make the transition without having a gap in their connectivity to the Suspended Services.

The Exchange believes that its proposed rule change would perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because it would highlight that the Suspended Services are only available during the Transition Period, that no fee will be charged for the Suspended Services during the Transition Period. At the end of the Transition Period, all Users will have their Suspended Services terminated. It would thereby reduce any potential

[3] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR–NYSENAT–2018–07). As specified in the Exchange's Schedule of Fees and Rebates (''Fee Schedule''), a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (together, the ''Affiliate SROs''). *See id.* at 26314 n.11. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–31, SR–NYSEAMER–2021–26, SR–NYSEArca–2021–38, and SR–NYSECHX–2021–10.

[4] *See* Securities Exchange Act Release No. 91389 (March 23, 2021), 86 FR 16403 (March 29, 2021) (SR–NYSENAT–2021–05).

[5] *See* Securities Exchange Act Release No. 91790 (May 7, 2021) (SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, SR–NYSENAT–2021–05).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

ambiguity and provide current Users and other market participants with clarity concerning the terms and period of availability of the Suspended Services.

In addition, the Exchange believes that the proposed rule change would promote just and equitable principles of trade. In light of the Commission's suspension, the current Users of the affected services are faced with an unexpected, immediate disruption of their connectivity, while market participants that opted to obtain similar connectivity from alternate providers are is not. The Exchange's proposal to allow all Users to receive the Suspended Services at no charge during the Transition Period would help equalize the treatment of these two groups of market participants by providing the same 14 day prospective period to both groups and giving current Users time to make the transition without having a gap in their connectivity to the third party systems and data feeds at issue.

Finally, the proposed rule change is not designed to permit unfair discrimination between market participants. The proposed rule change would apply equally to all Users. All Users would be entitled to receive the Suspended Services at no charge during the Transition Period. At the conclusion of the Transition Period, any remaining customers of Suspended Services would have their Suspended Services terminated.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to give current Users time to make a fair and orderly transition to substitute services without the disruptions to their operations and, potentially, to the markets that would be caused by an immediate termination of the Suspended Services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the 14 day period to take effect immediately. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2021–13 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSENAT–2021–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2021–13, and

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10385 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91875; File No. SR–CboeBZX–2021–036]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Exclude a National Best Bid or Offer From the Calculation of the BZX Official Closing Price, as Provided in Rule 11.23(c)(2)(B)(ii)(b), That Is Outside the Bands Provided Under the Plan To Address Extraordinary Market Volatility

May 12, 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 29, 2021, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to exclude an National Best Bid or Offer[3] (''NBBO'') from the calculation of the BZX Official Closing Price, as provided in Rule 11.23(c)(2)(B)(ii)(b), that is outside the bands provided under the Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down'' or ''LULD'' Plan).[4] 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 BZX Rule 11.23, Auctions, to modify how the BZX Official Closing Price, which is the price disseminated to the consolidated tape as the market center closing trade,[5] would be determined for any BZX-listed security that is not a corporate security (*i.e.,* an Exchange-Traded Product (''ETP'') as provided in Exchange Rule 14.11, also referred to as a ''Derivative Securities Product'') when the time-weighted average price of the NBBO midpoint is used to calculate the BZX Official Closing Price, as set forth in Rule 11.23(c)(2)(B)(ii)(b). This provision of Rule 11.23(c)(2)(B)(ii)(b) is only used to determine the BZX Official Closing Price and does not impact any executions in the Closing Auction. Such provision also only applies where there is less than one round lot executed in the Closing Auction and where there has not been a trade that would qualify as a Final Last Sale Eligible Trade within the final five minutes before the end of Regular Trading Hours. The Exchange is proposing instead to exclude from this midpoint calculation under Rule 11.23(c)(2)(B)(ii)(b) any NBBO when either the NBB is lower than the Lower Price Band or the NBO is higher than the Upper Price Band, as further described below. Excluding such NBBOs from the calculation will ensure that only those quotes in which both the NBB and NBO are actually executable will be included in determining the BZX Official Closing Price.

Rule 11.23(c)(2)(B)(i) through (iii) sets forth how the BZX Official Closing Price for Derivative Securities Products is determined. Paragraph (B)(i) provides that where at least one round lot is executed in the Closing Auction, the Closing Auction price will be the BZX Official Closing Price. Paragraph (B)(ii) provides that in the event that the BZX Official Closing Price cannot be determined under paragraph (B)(i), the BZX Official Closing Price for such security will depend on when the last consolidated last-sale trade occurs. Specifically, if a trade that would qualify as a Final Last Sale Eligible Trade[6] occurred (a) within the final five minutes before the end of Regular Trading Hours,[7] the Final Last Sale Eligible Trade will be the BZX Official Closing Price; or (b) prior to five minutes before the end of Regular Trading Hours, the time-weighted average price of the NBBO midpoint measured over the last five minutes before the end of Regular Trading Hours will be the BZX Official Closing Price. Paragraph (B)(iii) provides that if the BZX Official Closing Price cannot be determined under paragraphs (B)(i) or (B)(ii), the Final Last Sale Eligible Trade will be the BZX Official Closing Price.

The Exchange proposes to amend Rule 11.23(c)(2)(B)(ii)(b) in order to change how the BZX Official Closing Price is calculated using the time-weighted average price of the NBBO midpoint measured over the last five minutes before the end of Regular Trading Hours. Under current functionality, the Exchange uses all NBBO quotes during the last five minutes of Regular Trading Hours to determine the BZX Official Closing Price under Rule 11.23(c)(2)(B)(ii)(b). Certain market conditions may result in setting a BZX Official Closing Price that is not necessarily reflective of a Derivative Securities Product's reasonable market value. For example, if during a particular period of time in the last five minutes of Regular Trading Hours, a Derivative Securities Product has an NBO that is reasonably reflective

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* BZX Rule 1.5(o).

[4] *See* Securities Exchange Act No. 88704 (April 21, 2020) 85 FR 23383 (April 27, 2020) (File No. 4–634) (Amendment No. 20 Approval Order).

[5] *See* Exchange Rule 11.23(a)(3).

[6] The term ''Final Last Sale Eligible Trade'' shall mean the last round lot trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last round lot trade reported to the consolidated tape received by the Exchange during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used. *See* BZX Rule 11.23(a)(9).

[7] The term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See* BZX Rule 1.5(w).

of the current market value and an NBB that is significantly away from the current market value, the midpoint of the NBBO could be significantly lower than the reasonable market value of the security. In turn, the BZX Official Closing Price, when determined pursuant to Rule 11.23(c)(2)(B)(ii)(b), could also be set at a price that is significantly lower than the reasonable market value of the security.

Moreover, Rule 11.23(c)(2)(B)(ii)(b) is the only method of determining the BZX Official Closing Price that does not provide safeguards against a price that would not have been executable during Regular Trading Hours. Specifically, if the BZX Official Closing Price were determined pursuant to Rule 11.23(c)(2)(B)(i), the price would be determined as a result of the Closing Auction which must occur at a price within a Collar Price Range.[8] Generally, the Collar Price Range limits the Closing Auction from occurring at a price ranging from up to 10% below the Collar Midpoint [9] to up to 10% above the Collar Midpoint, and is based on the Exchange's clearly erroneous execution standards as detailed in Rule 11.17(c)(1). Similarly, if the BZX Official Closing Price were determined pursuant to Rules 11.23(c)(2)(B)(ii)(a) or 11.23(c)(2)(B)(iii), the price would be determined by the Final Last Sale Eligible Trade, as described above.[10] Any Final Last Sale Eligible Trade would occur during Regular Trading Hours, and thus could not occur outside the bands provided under the LULD Plan, as further discussed below.

Given the above, the Exchange proposes to amend Rule 11.23(c)(2)(B)(ii)(b) to exclude an NBBO outside the bands provided under the LULD Plan from the BZX Official Closing Price calculation. By way of background, the LULD Plan created a market-wide limit up-limit down mechanism to address extraordinary volatility in NMS Stocks by preventing unwarranted Trading Pauses [11] that are unrelated to volatility while also reducing the negative impacts of sudden unanticipated price movements in NMS Stocks.[12] The LULD Plan provides for market-wide single-stock price bands designed to prevent individual NMS Stocks from trading outside of specific price bands during Regular Trading Hours. Those price bands are based on a reference price for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions [13] for the NMS Stock over the immediately preceding five-minute period.[14] Specifically, the price bands for an NMS Stock are calculated by applying the Percentage Parameter [15] for such NMS Stock to the Reference Price, with the ''Lower Price Band'' being a Percentage Parameter below the Reference Price, and the ''Upper Price Band'' being a Percentage Parameter above the Reference Price. The Upper and Lower Price Bands are calculated and disseminated market-wide by the securities information processor (''SIP'') feeds with trading generally prohibited outside of the specified price bands. Thus, orders priced outside the Upper and Lower Bands are non-executable.[16] The Percentage Parameter is determined by a security's designation as a Tier 1 [17] or Tier 2 [18] security. Currently, all Derivative Securities Products listed on the Exchange are Tier 2 Securities, which have the following pricing parameters under the LULD Plan: Securities greater than $3.00 have a Percentage Parameter of 10%; securities $0.75 up to and including $3.00 have a Percentage Parameter of 20%, and, securities less than $0.75 have a Percentage Parameter of the lesser of $0.15 or 75%.[19] As discussed in the Eighteenth Amendment to the LULD Plan,[20] recent data has shown that the Percentage Parameters used to determine the width of the price bands were reasonably designed to ensure that they were not too wide as to permit trades to occur at prices that do not properly reflect supply and demand, and not too narrow as to cause excessive disruptions, inhibiting the price discovery process.

Similar to the LULD Plan, the Exchange's proposal seeks to calculate a BZX Official Closing Price pursuant to Rule 11.23(c)(2)(B)(ii)(b) that accurately reflects the supply and demand in the Derivative Securities Product. Therefore, the Exchange believes it is reasonable to limit the NBBO used to calculate the Official Closing Price pursuant to Rule 11.23(c)(2)(B)(ii)(b) to an NBB and NBO within the LULD Bands. As stated above, certain market conditions may result in setting a BZX Official Closing Price that is not necessarily reflective of a Derivative Securities Product's reasonable market value. For example, if during the last two minutes of Regular Trading Hours the NBB is below the Lower Price Band while the NBO is inside the price band (*i.e.,* a straddle state), the NBBO midpoint and in turn the BZX Official Closing Price may be significantly lower than the reasonable market value of the Derivative Securities Product. In turn, the BZX Official Closing Price, when determined pursuant to Rule 11.23(c)(2)(B)(ii)(b), could also be set at a price that is significantly lower than the reasonable market value of the security. As proposed, the NBBO in the above example would be excluded from the Official Closing Price calculation provided under Rule 11.23(c)(2)(B)(ii)(b) as the NBB was below the Lower Price Band. The Exchange believes it is reasonable to exclude such an NBBO because the NBB in this example would not have been executable during Regular Trading Hours as it was below the Lower Price Band, and thus could not contribute to an NBBO that is reflective of a Derivative Securities Product's reasonable market value. The Exchange believes that this proposed change will ensure a BZX Official Closing Price determined pursuant to Rule 11.23(c)(2)(B)(ii)(b) does not occur at a price that would not have been executable in either the Closing Auction or during Regular Trading Hours. Further, the Exchange believes the proposal will ensure that the BZX Official Closing Price is reflective of the reasonable market value of the Derivative Securities Product.

The Exchange notes NYSE Arca, Inc. (''NYSE Arca'') Rule 1.11(ll)(1)(B) [sic] similarly provides for the exclusion of an NBBO midpoint that is not reflective of a security's true and current value from its calculation of the Official Closing Price. The intent of NYSE Arca

[8] *See* Exchange Rule 11.23(a)(6).

[9] *Id.*

[10] *See* Exchange Rule 11.23(a)(9).

[11] *See* section VII of the LULD Plan *https://assets.website-files.com/5fd0e55ae5f254cd291b2d35/5fd10d8e4c53d2024dd15f4f_LULD_Plan%20Amendment_20.pdf.*

[12] *See* Exchange Rule 11.18(e).

[13] An ''Eligible Reported Transaction'' generally means transactions that are eligible to update the last sale price of an NMS Stock.

[14] *See* Securities Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012) (Order approving the National Market System Plan to Address Extraordinary Market Volatility).

[15] The ''Percentage Parameter'' means the percentages for each tier of NMS Stocks set forth in Appendix A of the Plan.

[16] *See* Exchange Rule 11.18(e)(4). Additionally, paragraph VI(A)(2) of the LULD Plan states ''When a National Best Bid is below the Lower Price Band or a National Best Offer is above the Upper Price Band for an NMS Stock, the Processor shall disseminate such National Best Bid or National Best Offer with an appropriate flag identifying it as non-executable.''

[17] Tier 1 securities comprise all securities in the S&P 500, the Russell 1000, and select ETPs.

[18] Tier 2 securities comprise of all NMS Stocks not included in Tier 1, except for rights and warrants, which are specifically excluded from coverage.

[19] *See* the LULD Annual Report for 2020 at 60663c2660e0056c9c8b6023_LULD FINAL.pdf (*website-files.com*).

[20] *See* Securities Exchange Act Release No. 84843 (December 18, 2018) 83 FR 66464 (December 26, 2018). *See also* Securities Exchange Act Release No. 85623 (April 11, 2019) 84 FR 16086 (April 17, 2019) (File No. 4–631).

Rule 1.11(ll)(1)(B) [sic] is to ''validate whether an NBBO used in the calculation of the Official Closing Price bears a relation to the value of the underlying security.'' [21] The Exchange's proposal similarly intends to exclude an NBBO from the calculation of the Official Closing Price that is not reasonably reflective of the current market value as the proposal would exclude an NBBO where one or both of the quotes comprising the NBBO would not have been executable during Regular Trading Hours.

The Exchange will implement the proposed rule change as soon as is practicable after the operative date of this proposed rule change and will announce the implementation date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Section 6(b)(5) of the Act,[23] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it is designed to prevent the BZX Official Closing Price from being set at a price that is significantly away from the reasonable market value of an Exchange-listed Derivative Securities Product. Specifically, in the event that during the last five minutes of the Regular Trading Hours either the NBB or NBO (or both) is outside of the applicable LULD Bands, the proposed amendment would allow the Exchange to exclude such quotes from its calculation of the BZX Official Closing Price as provided under Rule 11.23(c)(2)(B)(ii)(b). The exclusion of an NBBO outside the LULD bands would help to ensure that the NBBO midpoint used in the calculation of the BZX Official Closing Price pursuant to the Rule accurately reflects the supply and demand in the Derivative Securities Product, and is not set at a price that would not have been executable during Regular Trading Hours.

Under current rules, Rule 11.23(c)(2)(B)(ii)(b) is the only mechanism for determining the BZX Official Closing Price that does not provide safeguards to ensure that the price is set near the reasonable market value of the Derivative Securities Product. As discussed above, if the BZX Official Closing Price were determined pursuant to Rule 11.23(c)(2)(B)(i), the price would be determined as a result of the Closing Auction which must occur at a price within a Collar Price Range that is similar to the Percentage Parameters provided under the LULD Plan. Similarly, if the BZX Official Closing Price were determined pursuant to Rules 11.23(c)(2)(B)(ii)(a) or 11.23(c)(2)(B)(iii), the price would be the Final Last Sale Eligible Trade which could not occur outside the bands provided under the LULD Plan. Therefore, the Exchange believes the proposed change will provide greater transparency and certainty in the determination of the BZX Official Closing Price by eliminating the possibility that the BZX Official Closing Price could be set at a price that could not have executed in the Closing Auction or during Regular Trading Hours.

The Exchange believes the LULD bands are an appropriate mechanism to ensure that the BZX Official Closing Price is set at a price that reflects the reasonable market value of the Derivative Securities Product. The LULD Plan is intended to reduce the negative impacts of sudden unanticipated price movements in NMS Stocks, thereby protecting investors and promoting a fair and orderly market. As discussed above, the Exchange's proposal seeks to ensure a BZX Official Closing Price that accurately reflects the supply and demand in the Derivative Securities Product and prevent the calculation of the BZX Official Closing Price at a price that could not have occurred in the Closing Auction or during Regular Trading Hours. Therefore, the Exchange believes it is reasonable to limit the NBBO used for such calculation to an NBB and NBO within the LULD Bands.

While the Exchange believes the proposal would benefit investors, the Exchange does not believe that a significant number of quotes would be excluded from the calculation of the BZX Official Closing Price under the proposal. As noted in the LULD 2020 Annual Report,[24] LULD events were less likely to occur during the last 25 minutes of the trading day. Despite accounting for just 6% of the trading day (except short days), the last 25 minutes accounted for 3.43% LULD events. Specifically, the last 25 minutes involved a daily average of 93.3 straddle states during 2020, when the total daily average number of straddle states was 3,044.7. Therefore, the Exchange does not expect quotes to be excluded from the BZX Official Closing Price calculation as proposed with great frequency.

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 proposed rule change is designed to ensure that the BZX Official Closing Price of BZX-listed Derivative Securities Products is calculated, pursuant to Rule 11.23(c)(2)(B)(ii)(b), at a price that is reasonably reflective of the market value of the security in the event that either the NBB or NBO is significantly away from the reasonable market value of the security during the last five minutes of Regular Trading Hours. Further, the proposal is designed to ensure that such a BZX Official Closing Price is not set at a price that would not have been executable during Regular Trading Hours or in the Closing Auction. The Exchange believes the proposed changes would improve the experience of market participants trading on the Exchange without imposing any significant burden on competition as the proposal would simply provide for safeguards to ensure that the BZX Official Closing Price is set near the reasonable market value of the Derivative Securities Product. Further, as the proposal is designed to ensure the BZX Official Closing Price calculated pursuant to Exchange Rule 11.23(c)(2)(B)(ii)(b) accurately reflects the supply and demand in the Derivative Securities Product, the Exchange believes the proposal will help it better compete as a listing venue.

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.

[21] *See* Securities Exchange Act No. 84079 (September 11, 2018) 83 FR 46981 (September 17, 2018) (SR–NYSEArca–2018–63) (the ''NYSE Arca Proposal''). *See also* Securities Exchange Act No. 84471 (October 23, 2018) 83 FR 54384 (October 29, 2018) (SR–NYSEArca–2018–63) (the ''Approval Order'').

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] *See* supra note 19.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2021–036 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–2021–036. 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–2021–036 and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91874; File No. SR–NASDAQ–2021–036]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Allow Broker-Dealers That Purchase the Nasdaq Basic Enterprise License at Equity 7, Section 147(b)(5) to Distribute Nasdaq Last Sale ("NLS") to the General Investing Public

May 12, 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 30, 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 allow broker-dealers that purchase the Nasdaq Basic enterprise license at Equity 7, Section 147(b)(5) to distribute Nasdaq Last Sale (''NLS'') to the general investing public under the same terms and conditions currently permitted under the NLS enterprise license at Equity 7, Section 139(b)(4). The current Nasdaq Basic enterprise license at Section 147(b)(5) allows distribution of NLS to natural persons in a brokerage relationship with the broker-dealer, while the current NLS enterprise license at Section 139(b)(4) allows distribution to the general investing public for Display Usage, and requires the Distributor to have a reasonable basis to conclude that all Users of such information are either Non-Professionals or Professionals whom the Distributor has no reason to believe are using NLS in their professional capacity. The proposal is to allow broker-dealers that purchase the Nasdaq Basic enterprise license at Section 147(b)(5) to distribute NLS to the general investing public for Display Usage under the same conditions as set forth at Section 139(b)(4).

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to allow broker-dealers that purchase the Nasdaq Basic enterprise license at Equity 7, Section 147(b)(5) to distribute NLS to the general investing public under the same terms and conditions currently permitted under the NLS enterprise license at Equity 7, Section 139(b)(4). The current Nasdaq Basic enterprise license at Section 147(b)(5) limits distribution of NLS to natural persons in a brokerage relationship with the broker-dealer, while the current NLS enterprise license at Section 139(b)(4) allows distribution to the general

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

investing public for Display Usage,[3] and requires the Distributor [4] to have a reasonable basis to conclude that all Users of such information are either Non-Professionals [5] or Professionals [6] whom the Distributor has no reason to believe are using NLS in their professional capacity. The proposal is to allow broker-dealers that purchase the Nasdaq Basic enterprise license at Section 147(b)(5) to distribute NLS to the general investing public for Display Usage under the same conditions set forth at Section 139(b)(4).[7]

No exchange fees will change as a result of the Proposal.

Current Enterprise Licenses for Nasdaq Basic and NLS

Nasdaq Basic

Nasdaq Basic is a real-time market data product that offers best bid and offer and last sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center and trades reported to the FINRA/Nasdaq Trade Reporting Facility (''TRF''). It is a subset of the ''core'' quotation and last sale data provided by securities information processors (''SIPs''), which distribute consolidated data pursuant to the CTA/CQ Plan and the UTP Plan.

Nasdaq Basic is separated into three components, which may be purchased individually or in combination: (i) Nasdaq Basic for Nasdaq, which contains the best bid and offer on the Nasdaq market center and last sale transaction reports for Nasdaq and the FINRA/Nasdaq TRF for Nasdaq-listed stocks; (ii) Nasdaq Basic for NYSE, which covers NYSE-listed stocks, and (iii) Nasdaq Basic for NYSE American, which provides data on stocks listed on NYSE American and other listing venues that disseminate quotes and trade reports on Tape B. The specific data elements available through Nasdaq Basic are: (i) Nasdaq Basic Quotes (''QBBO''), the best bid and offer and associated size available in the Nasdaq Market Center, as well as last sale transaction reports; (ii) Nasdaq opening and closing prices, as well as IPO and trading halt cross prices; and (iii) general exchange information, including systems status reports, trading halt information, and a stock directory.

Nasdaq offers an enterprise license for Nasdaq Basic that allows a broker-dealer to distribute Nasdaq Basic, or Derived Data therefrom, through any electronic system approved by Nasdaq, to an unlimited number of Professional and Non-Professional Subscribers who are natural persons and with whom the broker-dealer has a brokerage relationship.[8] The monthly fee for that license is $100,000.[9] That license also provides the right to distribute NLS to an unlimited number of Professional and Non-Professional Subscribers who are natural persons and with whom the broker-dealer has a brokerage relationship without paying the fees set forth in Equity 7, Section 139(b) or (c).[10]

Nasdaq Last Sale

NLS provides real-time last sale information for executions occurring within the Nasdaq market center and trades reported to the jointly-operated FINRA/Nasdaq TRF.[11] The NLS data feed, which provides price, volume and time of execution data for last sale transactions, includes transaction information for Nasdaq-listed stocks (''NLS for Nasdaq'') and for stocks listed on NYSE, NYSE American, and other Tape B listing venues (''NLS for NYSE/NYSE American'').[12] It is, like Nasdaq Basic, a non-core product that provides a subset of the core data provided by the SIPs under the CTA and UTP plans.[13]

The Exchange offers an enterprise license for NLS under Section 139(b)(4), which allows any Distributor that is disseminating NLS to the general investing public, and which would otherwise pay the Per User, Per Query, or Per Device fees set forth in Equity 7, Sections 139(b)(1) through (3), to purchase a monthly enterprise license for $41,500. To be eligible for the license, NLS must be distributed on a platform(s) controlled by the Distributor and pre-approved by the Exchange as providing the Distributor with a reasonable basis to conclude that all Users of such Information [14] are either Non-Professionals or Professionals whom the Distributor has no reason to believe are using Nasdaq Last Sale in their professional capacity.

Proposed Change

The Exchange proposes to allow broker-dealers that purchase the Nasdaq Basic enterprise license at Equity 7, Section 147(b)(5) to distribute NLS to the general investing public under the same terms and conditions currently permitted under the NLS enterprise license at Equity 7, Section 139(b)(4). Currently, broker-dealers that purchase

[3] ''Display Usage'' means ''any method of accessing Exchange Information that involves the display of such data on a screen or other mechanism designed for access or use by a natural person or persons.'' Equity 7, Section 139(f)(2).

[4] A ''Distributor'' is ''an entity, as identified in the Nasdaq Global Data Agreement (or any successor agreement), that executes such an Agreement and has access to Exchange Information, together with its affiliates having such access.'' Equity 7, Section 139(f)(3).

[5] A ''Non-Professional Subscriber'' is ''a natural person who is not: (A) Registered or qualified in any capacity with the Securities and Exchange Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (B) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (C) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.'' Equity 7, Section 139(f)(6).

[6] A ''Professional Subscriber'' is ''any natural person, proprietorship, corporation, partnership, or other entity whatever other than a Non-Professional.'' Equity 7, Section 139(f)(7).

[7] The Exchange also proposes to introduce three conforming changes. First, Nasdaq proposes language to clarify that the approval requirements for electronic systems discussed in Section 147 apply to the distribution of Nasdaq Basic, not to the distribution of NLS. Distribution of NLS will be approved according to the standards set forth in Section 139, and will be subject to all of the provisions, excluding the payment of fees, set forth in Section 139(b)(4). Second, the Exchange proposes to replace an incorrect citation to Equity 7, Section 147(d)(3) with the correct citation to Equity 7, Section 147(d)(4). Third, the Exchange proposes to remove a reference to Section 139(c) to clarify that the enterprise license under Section 147(b)(5) covers the fees for distribution to the general investing public listed in Equity 7, Section 139(b), but not the fees for specialized use cases set forth in Equity 7, Section 139(c).

[8] *See* Equity 7 Section 147(b)(5).

[9] *See id.*

[10] The Nasdaq Basic enterprise license also includes a number of other provisions and restrictions not at issue here, including but not limited to: (i) A limitation that the use of the data by a Professional Subscriber shall be limited to the brokerage relationship, except that Nasdaq Basic data may be made available for up to 4,500 internal Subscribers without incurring additional fees; (ii) a requirement for a separate enterprise license for each discrete electronic system; (iii) a requirement that the broker-dealer pay distributor fees under paragraph (c)(1); and (iv) a requirement that the broker-dealer report the number of Subscribers receiving Nasdaq Basic under this license.

[11] *See* Securities Exchange Act Release No. 55255 (February 8, 2007), 72 FR 7100 (February 14, 2007) (SR–NASDAQ–2006–060) (proposing to establish Nasdaq Last Sale data feeds); *see also* Securities Exchange Act Release No. 57965 (June 16, 2008), 73 FR 35178 (June 20, 2008) (SR–NASDAQ–2006–060) (approving SR–NASDAQ–2006–060, as amended by Amendment Nos. 1 and 2, to implement NLS on a pilot basis).

[12] *See* Securities Exchange Act Release No. 57965 (June 16, 2008), 73 FR 35178 (June 20, 2008) (SR–NASDAQ–2006–060).

[13] *See* Securities Exchange Act Release No. 34–82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–NASDAQ–2018–010).

[14] ''Information'' means ''any data or information that has been collected, validated, processed and/or recorded by the Exchange and made available for transmission relating to: (i) Eligible securities or other financial instruments, markets, products, vehicles, indicators or devices; (ii) activities of the Exchange; or (iii) other information or data from the Exchange. Information includes, but is not limited to, any element of information used or processed in such a way that Exchange Information or a substitute for such Information can be identified, recalculated or re-engineered from the processed information.'' *See* Equity 7, Section 139(f)(5).

the Nasdaq Basic enterprise license are allowed to distribute NLS to ''an unlimited number of Professional and Non-Professional Subscribers who are natural persons and with whom the broker-dealer has a brokerage relationship,'' [15] while Distributors that purchase the NLS enterprise license may distribute NLS to any member of the general investing public for Display Usage, provided that the Distributor has a ''reasonable basis to conclude that all Users of such Information are either Non-Professionals or Professionals whom the Distributor has no reason to believe are using Nasdaq Last Sale in their professional capacity.'' [16] Nasdaq proposes to allow purchasers of Nasdaq Basic to distribute NLS to the general investing public for Display Usage under the same terms and conditions as the NLS enterprise license.

The Proposal will offer purchasers of the Nasdaq Basic enterprise license at Equity 7, Section 147(b)(5) the full use of the NLS enterprise license at Equity 7, Section 139(b)(4) at no extra charge. The same terms and conditions applicable to the NLS enterprise license will continue to apply to the distribution of NLS to the general investing public under the Nasdaq Basic enterprise license. These common conditions include: (i) A limitation that distribution of NLS will be limited to Display Usage; [17] (ii) a separate approval for each platform that will distribute NLS will be required; [18] and (iii) a requirement that distribution be limited to the general investing public.[19] The Exchange also proposes to delete a reference Equity 7, Section 139(c) to make it clear that distributors that utilize NLS for one of the specialized use cases set forth at Equity 7, Section 139(c) will be required to pay the fees applicable to such use cases, whether or not they purchased the Nasdaq Basic or NLS enterprise licenses. All of these restrictions currently apply to purchasers of the NLS enterprise license.[20] The Proposal will continue to allow the distribution of Nasdaq Basic, including the last sale information that is a component of Nasdaq Basic, under the terms and conditions set forth in Equity 7, Section 147(b)(5) without change.

The Proposal will allow broader distribution of NLS to the general investing public and will lower our customers' administrative costs, as they would not be required to restrict distribution to individuals with brokerage accounts.

Discussion

Background

Limitations on the distribution of NLS under the Nasdaq Basic enterprise license have changed over time. The enterprise license was initially proposed in 2011. At that time, distribution was limited to Non-Professional Subscribers in a brokerage relationship, and NLS was not included.[21] Distribution of NLS was added in 2017,[22] and, in 2018, distribution of NLS was limited to Professional and Non-Professional Subscribers who are natural persons in a brokerage relationship with the broker-dealer, the same limitation as the distribution of Nasdaq Basic.[23]

In 2019, Nasdaq introduced the enterprise license fee for NLS at Section 139(b)(4).[24] The purpose of the enterprise license was to lower the cost of distributing last sale data and expand its availability to the general investing public by eliminating certain counting requirements for NLS usage, and expanding the available mechanisms for the delivery of NLS data. Nasdaq noted in that filing that NLS had been designed to enable market-data distributors ''to provide free access to [ ] data to millions of individual investors via the internet and television'' and was expected to ''increase[ ] the availability of N[asdaq] proprietary market data to individual investors.'' [25]

The 2019 filing for the NLS enterprise license included the requirement that the Distributor have a reasonable basis to conclude that all Users of such Information [26] are either Non-Professionals or Professionals whom the Distributor has no reason to believe are using NLS in their professional capacity—the same test applied to the Per User model of NLS distribution.[27] The Exchange explained that a Distributor has ''no reason to believe'' that NLS is being used in a professional capacity when, for example, the data is made available to the general investing public in a format that would be ''unlikely to be of significant use to Professionals acting in a professional capacity,'' as in the Per Query model,[28] or when the Information is ''made freely available to internet users,'' as in the Per Device model.[29] Any Distributor that would be eligible to disseminate NLS under the Per User, Per Query, or Per Device models would be able to meet that test because it is inherent (or explicit) within the eligibility criteria

[15] Equity 7, Section 147(b)(5).

[16] Equity 7, Section 139(b)(4).

[17] *See id.* (''For any customer that would otherwise eligible for the Per User, Per Query, or Per Device fees set forth in subsections (1) through (3) above, excluding any requirement to count or track usage, a Distributor may purchase a monthly enterprise license for $41,500 to distribute Nasdaq Last Sale data *to the General Investing Public for Display Usage* to an unlimited number of Users or Devices, including, but not limited to, television distribution. . . .) (emphasis added).

[18] *See id.* (''To be eligible for the enterprise license, Nasdaq Last Sale must be distributed on platform(s) controlled by the Distributor and pre-approved by the Exchange as providing the Distributor with a reasonable basis to conclude that all Users of such Information are either Non-Professionals or Professionals whom the Distributor has no reason to believe are using Nasdaq Last Sale in their professional capacity.''). This is a different platform approval requirement from that required to distribute Nasdaq Basic under Section 147(b)(5). The approval for a Nasdaq Basic platform under Section 147(b)(5) is used to confirm that the platform distributes information within the brokerage relationship, and meets all other requirements set forth within that license. The approval for the NLS platform under Section 139(b)(4) is used to confirm that the Distributor has a reasonable basis to conclude that all Users of such Information are either Non-Professionals or Professionals whom the Distributor has no reason to believe are using Nasdaq Last Sale in their professional capacity. This modification places the same platform approval requirement on purchasers of the Nasdaq Basic enterprise license that choose to distribute NLS outside of the brokerage relationship as customers that choose to solely purchase the NLS enterprise license.

[19] Distribution of NLS under any specialized use case would occur under the applicable fee set forth in Equity 7, Section 139(c). *Compare* Equity 7, Section 139(b) (identifying fees for distribution to the General Investing Public) *with* Equity 7, Section 139(c) (identifying fees for specialized usage of NLS).

[20] Current purchasers of the Nasdaq Basic enterprise license will not be circumscribed in their ability to distribute last sale data within the parameters of that license. As explained above, Nasdaq Basic contains both best bid and offer information and last sale transaction reports. Customers that purchase Nasdaq Basic will continue to be able to distribute last sale data within the brokerage relationship as part of the Nasdaq Basic enterprise license without change. The proposal will simply add a new option for Nasdaq Basic customers: to distribute NLS data outside of the brokerage relationship, under the same terms and conditions that apply to purchasers of the NLS enterprise license.

[21] *See* Securities Exchange Act Release No. 65526 (October 11, 2011), 76 FR 64137 (October 17, 2011) (SR–Nasdaq–2011–130).

[22] *See* Securities Exchange Act Release No. 81697 (September 25, 2017), 82 FR 45639 (September 29, 2017) (SR–Nasdaq–2017–095).

[23] *See* Securities Exchange Act Release No. 82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–NASDAQ–2018–010).

[24] *See* Securities Exchange Act Release No. 85504 (April 3, 2019), 84 FR 14183 (April 9, 2019) (SR–NASDAQ–2019–024).

[25] *See id.; see also* Securities Exchange Act Release No. 57965 (June 16, 2008), 73 FR 35178 (June 20, 2008) (SR–NASDAQ–2006–060) (notice of filing of Amendment No. 2 and Order granting accelerated approval to proposed rule change, ad modified by Amendment Nos. 1 and 2, to establish Nasdaq last sale data feeds).

[26] *See supra,* note 14.

[27] *See* Section 139(b)(1).

[28] *See* Securities Exchange Act Release No. 85504 (April 3, 2019), 84 FR 14183 (April 9, 2019) (SR–NASDAQ–2019–024); *see also* Securities Exchange Act Release No. 34–82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–NASDAQ–2018–010).

[29] *See id.*

for each model.[30] One of the chief benefits of the enterprise license was that it was designed to allow Distributors to disseminate NLS data to the general investing public in a manner not easily tracked using the Per User, Per Query, or Per Device models.[31]

Basis for Proposal

At least two potential customers of the Nasdaq Basic enterprise license have requested permission to distribute NLS to the general investing public for Display Usage without requiring a brokerage relationship. Upon consideration of those customer requests, Nasdaq has determined that complying with them is in the best interest of our customers. First, the proposed change will allow broader distribution of NLS to the general investing public. Second, the Proposal will lower our customers' administrative costs as they would not be required to restrict distribution to individuals with brokerage accounts.[32]

There is little risk that the new standard will result in widespread distribution of NLS, which was designed for the general investing public, to professionals acting in their professional capacity. Although the new standard may occasionally result in incidental Professional use, such use is reasonable because NLS contains less information and does not provide pre-trade transparency, and is therefore likely to be less useful to a Professional than Nasdaq Basic or other products that provide greater pre-trade information.

The proposed change is not targeted at, or expected to be limited in its applicability to, any particular segment of market participants, and no segment of retail investors, the general investing public, or any other market participant is expected to benefit more than any other.[33]

The Exchange expects the Nasdaq Basic enterprise license to continue to be attractive to potential customers, but does not expect a large number of additional sales in response to this change. Nevertheless, based on conversations with potential customers and our overall familiarity with the market, as many as three additional broker-dealers may purchase the Nasdaq Basic enterprise license as a result of the proposed change.[34]

The Proposal will not alter any Exchange fees.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[35] in general, and furthers the objectives of Section 6(b)(5) of the Act,[36] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange has already shown the Nasdaq Basic enterprise license at Section 147(b)(5),[37] and the NLS enterprise license at Section 139(b)(4) [38] to be consistent with Section 6(b) of the Act. This analysis therefore focuses on the change to the Nasdaq Basic enterprise license at Section 147(b)(5).

As explained above, the Proposal will expand the coverage of the Nasdaq Basic enterprise license at Equity 7, Section 147(b)(5) to include the full use of the NLS enterprise license at Equity 7, Section 139(b)(4) at no extra charge. The same terms and conditions applicable to the NLS enterprise license will continue to apply to the distribution of NLS to the general investing public under the Nasdaq Basic enterprise license. These common conditions include: (i) A requirement that distribution of NLS be limited to Display Usage; [39] (ii) a separate approval of each platform that will distribute NLS will be required; [40] and (iii) a restriction that distribution be limited to the general investing public.[41] Distributors that utilize NLS for one of the specialized use cases set forth at Equity 7, Section 139(c) will be required to pay the fees applicable to such use cases, whether or not they purchased the Nasdaq Basic or NLS enterprise licenses. All of conditions that currently apply to purchasers of the NLS enterprise license will apply to distribution of NLS for Display Usage to the general investing public under the Nasdaq Basic enterprise license.[42]

Both Nasdaq Basic and NLS compete with the top-of-book proprietary data products offered by other exchanges, including the NYSE BQT feed, which disseminates top-of-book information from the NYSE, NYSE American, NYSE Arca, NYSE National, and NYSE Chicago exchanges,[43] and the Cboe One Summary Feed, which disseminates data from the BZX Exchange, BYX

[30] The ''no reason to believe'' test is explicitly part of the criteria for the Per User model. *See* Section 139(b)(1). It is inherent in the Per Query model because, as noted above and in the filing instituting that fee, this model ''is unlikely to be of significant use to Professionals acting in a professional capacity . . .'' *See* Securities Exchange Act Release No. 34–82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–NASDAQ–2018–010). It is also inherent in the Per Device model because that model is designed to make information ''freely available to internet users,'' and therefore is unlikely to be of significant use to Professionals acting in a professional capacity. *See id.*

[31] An example of the type of distribution model intended to benefit from the proposed license is a spreadsheet program that allows the User to refresh a stock price using an in-program command without copying data. Such usage is analogous to the Per Query model, which supplies only as much data as the User requests on an ad hoc basis, but is less susceptible to counting because the request is done using a command embedded within another program.

[32] *See* Securities Exchange Act Release No. 82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–NASDAQ–2018–010) (quoting SR–NASDAQ–2006–060 (Amendment No. 2, June 10, 2008), at 3.) (explaining that NLS was designed to enable market-data ''distributors to provide free access to the data to millions of individual investors via the internet and television'' and was expected to ''increase the availability of NASDAQ proprietary market data to individual investors.''); *see also* Securities Exchange Act Release No. 57965 (June 16, 2008), 73 FR 35178 (June 20, 2008) (SR–NASDAQ–2006–060) (notice of filing of Amendment No. 2 and Order granting accelerated approval to proposed rule change, ad modified by Amendment Nos. 1 and 2, to establish Nasdaq last sale data feeds).

[33] Although this is not a fee filing, the Exchange is addressing this question to provide as complete as possible an evaluation of the proposed change. *See* Division of Trading and Markets, U.S. Securities and Exchange Commission, ''Staff Guidance on SRO Filings Related to Fees'' (May 21, 2019) (''Staff Guidance''), available at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees* (indicating that the discussion of purpose should indicate ''whether the relevant product or service, including the corresponding proposed fee or fee change, is targeted at—or expected to be limited in its applicability to—a specific segment(s) of market participants (and if so, the related details))''.

[34] *See id.* (requesting that the discussion of purpose address ''the projected number of purchasers (including members, as well as non-members) of any new or modified product or service and the expected number of purchasers likely to be subject to a new fee or pricing tier, including members and non-members . . .'').

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *See* Securities Exchange Act Release No. 81697 (September 25, 2017), 82 FR 45639 (September 29, 2017) (SR–Nasdaq–2017–095).

[38] *See* Securities Exchange Act Release No. 85504 (April 3, 2019), 84 FR 14183 (April 9, 2019) (SR–NASDAQ–2019–024).

[39] *See supra,* note 17.

[40] *See supra,* note 18.

[41] *See supra,* note 19.

[42] *See supra,* note 20. Current purchasers of the Nasdaq Basic enterprise license will not be circumscribed in their ability to distribute last sale data within the parameters of that license. As explained above, Nasdaq Basic contains both best bid and offer information and last sale transaction reports. Customers that purchase Nasdaq Basic will continue to be able to distribute last sale data within the brokerage relationship as part of the Nasdaq Basic enterprise license without change. The proposal will simply add a new option for Nasdaq Basic customers: To distribute NLS data outside of the brokerage relationship, under the same terms and conditions that apply to purchasers of the NLS enterprise license.

[43] *See* Securities Exchange Act Release No. 87803 (December 19, 2019), 84 FR 71505 (December 27, 2019) (SR–NYSE–2019–70) (explaining that the NYSE BQT market data product competes ''head to head with the Nasdaq Basic and Cboe One Feed market data products.'').

Exchange, EDGX Exchange and EDGA Exchange.[44] The proposed change will enhance competition by allowing broader distribution of NLS in the context of the Nasdaq Basic license, and lowering the cost of compliance for Nasdaq's customers by removing the need to restrict distribution to individuals with brokerage accounts. Competition with other exchanges in the sale of top-of-book products, and the likelihood that the Proposal will enhance investor understanding of securities markets and promote consumer choice by expanding the availability of NLS to the general investing public, provide a substantial basis for finding that the Proposal promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest.

The Proposal is not unfairly discriminatory. As noted previously, both the Nasdaq Basic[45] and NLS[46] enterprise licenses were shown to be non-discriminatory and otherwise consistent with the Act. The only change here is to allow broader distribution of NLS under the Nasdaq Basic enterprise license at Section 147(b)(5). As explained above, the proposed change is not targeted at, or expected to be limited in its applicability to, any particular segment of market participants, and no segment of retail investors, the general investing public, or any other market participant is expected to benefit more than any other. The proposal will apply to any broker-dealer that purchases the Nasdaq Basic enterprise license without differentiation of any kind, and is therefore not unfairly discriminatory.

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.

Intermarket Competition

Applying the same standard for the distribution of NLS to both the Nasdaq Basic and NLS enterprise licenses at Sections 147(b)(5), and 139(b)(4), respectively, will place no burden on intermarket competition (the competition among SROs). Both Nasdaq Basic and NLS already compete directly against the NYSE BQT feed and the Cboe One Summary Feed. As noted above, the proposed change will enhance competition by allowing broader distribution of NLS, and lowering the cost of compliance for Nasdaq's customers by removing the need to restrict distribution to individuals with brokerage accounts. Nasdaq believes that the proposed change will enhance the value of the Nasdaq Basic enterprise license, promote customer choice, and therefore boost competition among exchanges.

Intramarket Competition

The Proposal will not cause any unnecessary or inappropriate burden on intramarket competition (competition among exchange customers). The Proposal is not targeted at, or expected to be limited in its applicability to, any particular segment of broker-dealers, and no market participant or any segment of the general investing public is expected to benefit more than any other. As such, the Proposal does not place any category of market participant at a relative disadvantage compared to any other category, and therefore will not impose any burden on competition not necessary or appropriate in furtherance of the Act. Moreover, current purchasers of the Nasdaq Basic enterprise license will not be circumscribed in their ability to distribute last sale data within the parameters of that license. As explained above, Nasdaq Basic contains both best bid and offer information and last sale transaction reports. Customers that purchase Nasdaq Basic will continue to be able to distribute last sale data within the brokerage relationship as part of the Nasdaq Basic enterprise license without change. The proposal will simply add a new option for Nasdaq Basic customers: To distribute NLS data outside of the brokerage relationship, under the same terms and conditions that apply to purchasers of the NLS enterprise license. Given that this is an expansion of an existing license that does not curtail that license in any way, there is no burden on intramarket competition.

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[47] and Rule 19b–4(f)(6) thereunder.[48]

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–2021–036 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–2021–036. 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

[44] *See https://markets.cboe.com/us/equities/market_data_services/#:~:text=Cboe%20Top%20is%20a%20real,time%20on%20a%20Cboe%20book.&text=It%20is%20a%20real%2Dtime,time%20on%20a%20Cboe%20book.*

[45] *See* Securities Exchange Act Release No. 81697 (September 25, 2017), 82 FR 45639 (September 29, 2017) (SR–Nasdaq–2017–095).

[46] *See* Securities Exchange Act Release No. 85504 (April 3, 2019), 84 FR 14183 (April 9, 2019) (SR–NASDAQ–2019–024).

[47] 15 U.S.C. 78s(b)(3)(A).

[48] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–2021–036 and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10388 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91861; File No. SR–NYSEArca–2021–38]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Continue Offering Certain Connectivity Services That Have Been Suspended by the Securities and Exchange Commission

May 12, 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 May 7, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to continue offering certain connectivity services that have been suspended by the Securities and Exchange Commission (''Commission'') at no charge, for a period of 14 days, in order to provide affected Users time to acquire substitute services before their connectivity is terminated. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to continue offering certain connectivity services that have been suspended by the Commission at no charge, for a period of 14 days, in order to provide affected Users[3] time to acquire substitute services before their connectivity is terminated.

As background, on March 10, 2021, the Exchange filed with the Commission a proposed rule change for immediate effectiveness (the ''Filing'') that amended the colocation services offered by the Exchange to provide Users the option to access to the systems and data feeds of various additional third parties.[4] The proposed rule change became operative on April 9, 2021. Since then, five Users have contracted to receive the services that were added in the Filing.

On May 7, 2021, the Commission suspended the Filing and instituted proceedings to determine whether the proposed rule change should be approved or disapproved.[5] Such action suspended the Exchange's ability to offer access to Third Party Systems from Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade, and to offer connectivity to Third Party Data Feeds from ICE Data Services—ICE TMC, Members Exchange, MIAX Emerald, and MIAX PEARL Equities (together, the ''Suspended Services'').

The Commission's suspension of such services is likely to cause disruption to the current Users of such services, who must now acquire substitutes for the Suspended Services. As an accommodation to such current Users, the Exchange now proposes to provide the Suspended Services to all Users, at no charge, for a period of 14 days from the date of filing (''Transition Period''), to enable current Users to maintain their connectivity while establishing alternate connectivity.

Specifically, the Exchange proposes to amend the Fee Schedules relating to colocation to provide:

Connectivity To Suspended Third Party Systems and Suspended Third Party Data Feeds

Connectivity to the Third Party Systems and Third Party Data Feeds listed below (''Suspended Services'') is available until May 24, 2021 (''Transition Period''). During the Transition Period, the Exchange will not charge any fees for the Suspended Services. At the conclusion of the

[49] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the NYSE Arca Equities Fees and Charges and the NYSE Arca Options Fees and Charges (together, the ''Fee Schedules''), a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–31, SR–NYSEAMER–2021–26, SR–NYSECHX–2021–10, and SR–NYSENAT–2021–13.

[4] *See* Securities Exchange Act Release No. 91388 (March 23, 2021), 86 FR 16433 (March 29, 2021) (SR–NYSEArca–2021–15).

[5] *See* Securities Exchange Act Release No. 91790 (May 7, 2021) (SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, SR–NYSENAT–2021–05).

Transition Period, any remaining customers of Suspended Services will have their Suspended Services terminated.

Suspended Third Party Systems

Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities
Morgan Stanley
TD Ameritrade

Suspended Third Party Data Feeds

ICE Data Services—ICE TMC
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities

Application and Impact of the Proposed Changes

The proposed rule change would apply to all Users, each of which would be eligible to receive the Suspended Services, at no charge, for a period of up to 14 days.

Competitive Environment

The proposed changes are not intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and would further the protection of investors and the public interest. Without the proposed rule change, the Suspended Services would be terminated immediately, leaving the current Users without access and connectivity to the Suspended Services. As a result, the Commission's suspension of the services at issue is likely to cause disruption to the current Users of the Suspended Services, who must now acquire substitute services. The Exchange's proposal to provide the Suspended Services, at no charge, to all Users during the Transition Period would give such current Users an opportunity to transition to substitute services without a gap in their service, which would mitigate the disruption and lessen the burden on such current Users.

Further, the Exchange believes that providing a 14-day Transition Period would remove impediments to and perfect the mechanism of a free and open market and a national market system and would protect investors and the public interest. Current Users that wish to replace the Suspended Services will have to investigate their other options, negotiate new terms, and establish and test their new connections. The proposed Transition Period gives current Users time to complete all the steps required to make the transition without having a gap in their connectivity to the Suspended Services.

The Exchange believes that its proposed rule change would perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because it would highlight that the Suspended Services are only available during the Transition Period, that no fee will be charged for the Suspended Services during the Transition Period. At the end of the Transition Period, all Users will have their Suspended Services terminated. It would thereby reduce any potential ambiguity and provide current Users and other market participants with clarity concerning the terms and period of availability of the Suspended Services.

In addition, the Exchange believes that the proposed rule change would promote just and equitable principles of trade. In light of the Commission's suspension, the current Users of the affected services are faced with an unexpected, immediate disruption of their connectivity, while market participants that opted to obtain similar connectivity from alternate providers are is not. The Exchange's proposal to allow all Users to receive the Suspended Services at no charge during the Transition Period would help equalize the treatment of these two groups of market participants by providing the same 14-day prospective period to both groups and giving current Users time to make the transition without having a gap in their connectivity to the third party systems and data feeds at issue.

Finally, the proposed rule change is not designed to permit unfair discrimination between market participants. The proposed rule change would apply equally to all Users. All Users would be entitled to receive the Suspended Services at no charge during the Transition Period. At the conclusion of the Transition Period, any remaining customers of Suspended Services would have their Suspended Services terminated.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to give current Users time to make a fair and orderly transition to substitute services without the disruptions to their operations and, potentially, to the markets that would be caused by an immediate termination of the Suspended Services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the 14-day period to take effect immediately. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2021–38 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEArca–2021–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–38, and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

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[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91860; File No. SR–NYSEAMER–2021–26]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Continue Offering Certain Connectivity Services That Have Been Suspended by the Securities and Exchange Commission

May 12, 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 May 7, 2021, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to continue offering certain connectivity services that have been suspended by the Securities and Exchange Commission (''Commission'') at no charge, for a period of 14 days, in order to provide affected Users time to acquire substitute services before their connectivity is terminated. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 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 continue offering certain connectivity services that have been suspended by the Commission at no charge, for a period of 14 days, in order to provide affected Users [3] time to acquire substitute services before their connectivity is terminated.

As background, on March 10, 2021, the Exchange filed with the Commission a proposed rule change for immediate effectiveness (the ''Filing'') that amended the colocation services offered by the Exchange to provide Users the option to access to the systems and data feeds of various additional third parties.[4] The proposed rule change became operative on April 9, 2021. Since then, five Users have contracted to receive the services that were added in the Filing.

On May 7, 2021, the Commission suspended the Filing and instituted proceedings to determine whether the proposed rule change should be approved or disapproved.[5] Such action suspended the Exchange's ability to offer access to Third Party Systems from Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade, and to offer connectivity to Third Party Data Feeds from ICE Data Services—ICE TMC, Members Exchange, MIAX Emerald, and MIAX PEARL Equities (together, the ''Suspended Services'').

The Commission's suspension of such services is likely to cause disruption to the current Users of such services, who must now acquire substitutes for the Suspended Services. As an accommodation to such current Users, the Exchange now proposes to provide the Suspended Services to all Users, at no charge, for a period of 14 days from the date of filing (''Transition Period''), to enable current Users to maintain their connectivity while establishing alternate connectivity.

Specifically, the Exchange proposes to amend the Price List and Fee Schedule related colocation to provide:

Connectivity to Suspended Third Party Systems and Suspended Third Party Data Feeds

Connectivity to the Third Party Systems and Third Party Data Feeds listed below (''Suspended Services'') is available until May 24, 2021 (''Transition Period''). During the Transition Period, the Exchange will not charge any fees for the Suspended Services. At the conclusion of the Transition Period, any remaining customers of Suspended Services will have their Suspended Services terminated.

Suspended Third Party Systems:
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities
Morgan Stanley
TD Ameritrade

Suspended Third Party Data Feeds:
ICE Data Services—ICE TMC
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities

Application and Impact of the Proposed Changes

The proposed rule change would apply to all Users, each of which would be eligible to receive the Suspended Services, at no charge, for a period of up to 14 days.

Competitive Environment

The proposed changes are not intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and would further the protection of investors and the public interest. Without the proposed rule change, the Suspended Services would be terminated immediately, leaving the current Users without access and connectivity to the Suspended Services. As a result, the Commission's suspension of the services at issue is likely to cause disruption to the current Users of the Suspended Services, who must now acquire substitute services. The Exchange's proposal to provide the Suspended Services, at no charge, to all Users during the Transition Period would give such current Users an opportunity to transition to substitute services without a gap in their service, which would mitigate the disruption and lessen the burden on such current Users.

Further, the Exchange believes that providing a 14-day Transition Period would remove impediments to and perfect the mechanism of a free and open market and a national market system and would protect investors and the public interest. Current Users that wish to replace the Suspended Services will have to investigate their other options, negotiate new terms, and establish and test their new connections. The proposed Transition Period gives current Users time to complete all the steps required to make the transition without having a gap in their connectivity to the Suspended Services.

The Exchange believes that its proposed rule change would perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because it would highlight that the Suspended Services are only

[3] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the NYSE American Equities Price List and Fee Schedule and the NYSE American Options Fee Schedule (together, the ''Price List and Fee Schedule''), a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–31, SR–NYSEArca–2021–38, SR–NYSECHX–2021–10, and SR–NYSENAT–2021–13.

[4] *See* Securities Exchange Act Release No. 91387 (March 23, 2021), 86 FR 16417 (March 29, 2021) (SR–NYSEAMER–2021–13).

[5] *See* Securities Exchange Act Release No. 91790 (May 7, 2021) (SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, SR–NYSENAT–2021–05).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

available during the Transition Period, that no fee will be charged for the Suspended Services during the Transition Period. At the end of the Transition Period, all Users will have their Suspended Services terminated. It would thereby reduce any potential ambiguity and provide current Users and other market participants with clarity concerning the terms and period of availability of the Suspended Services.

In addition, the Exchange believes that the proposed rule change would promote just and equitable principles of trade. In light of the Commission's suspension, the current Users of the affected services are faced with an unexpected, immediate disruption of their connectivity, while market participants that opted to obtain similar connectivity from alternate providers are is not. The Exchange's proposal to allow all Users to receive the Suspended Services at no charge during the Transition Period would help equalize the treatment of these two groups of market participants by providing the same 14 day prospective period to both groups and giving current Users time to make the transition without having a gap in their connectivity to the third party systems and data feeds at issue.

Finally, the proposed rule change is not designed to permit unfair discrimination between market participants. The proposed rule change would apply equally to all Users. All Users would be entitled to receive the Suspended Services at no charge during the Transition Period. At the conclusion of the Transition Period, any remaining customers of Suspended Services would have their Suspended Services terminated.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to give current Users time to make a fair and orderly transition to substitute services without the disruptions to their operations and, potentially, to the markets that would be caused by an immediate termination of the Suspended Services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the 14 day period to take effect immediately. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2021–26 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–NYSEAMER–2021–26. 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

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

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–NYSEAMER–2021–26, and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10382 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91871; File No. SR–NYSE–2021–20]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Withdrawal of a Proposed Rule Change To Amend Section 102.04 of the NYSE Listed Company Manual To Establish Limits on Investments in Unregistered Investment Vehicles by Listed Closed End Funds

May 12, 2021.

On April 9, 2021, New York Stock Exchange LLC (''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish limits on investments in unregistered investment vehicles by listed closed end funds. The proposed rule change was published for comment in the **Federal Register** on April 26, 2021.[3] On May 6, 2021, NYSE withdrew the proposed rule change (SR–NYSE–2021–20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10387 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

[15] 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 Release No. 91618 (April 20, 2021), 86 FR 22080 (April 26, 2021).

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91859; File No. SR–NYSE–2021–31]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Continue Offering Certain Connectivity Services That Have Been Suspended by the Securities and Exchange Commission

May 12, 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 May 7, 2021, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to continue offering certain connectivity services that have been suspended by the Securities and Exchange Commission (''Commission'') at no charge, for a period of 14 days, in order to provide affected Users time to acquire substitute services before their connectivity is terminated. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 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 continue offering certain connectivity services that have been suspended by the Commission at no charge, for a period of 14 days, in order to provide affected Users [3] time to acquire substitute services before their connectivity is terminated.

As background, on March 10, 2021, the Exchange filed with the Commission a proposed rule change for immediate effectiveness (the ''Filing'') that amended the colocation services offered by the Exchange to provide Users the option to access to the systems and data feeds of various additional third parties.[4] The proposed rule change became operative on April 9, 2021. Since then, five Users have contracted to receive the services that were added in the Filing.

On May 7, 2021, the Commission suspended the Filing and instituted proceedings to determine whether the proposed rule change should be approved or disapproved.[5] Such action suspended the Exchange's ability to offer access to Third Party Systems from Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade, and to offer connectivity to Third Party Data Feeds from ICE Data Services—ICE TMC, Members Exchange, MIAX Emerald, and MIAX PEARL Equities (together, the ''Suspended Services'').

The Commission's suspension of such services is likely to cause disruption to the current Users of such services, who must now acquire substitutes for the

[3] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAMER–2021–26, SR–NYSEArca–2021–38, SR–NYSECHX–2021–10, and SR–NYSENAT–2021–13.

[4] *See* Securities Exchange Act Release No. 91386 (March 23, 2021), 86 FR 16410 (March 29, 2021) (SR–NYSE–2021–15).

[5] *See* Securities Exchange Act Release No. 91790 (May 7, 2021) (SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, SR–NYSENAT–2021–05).

Suspended Services. As an accommodation to such current Users, the Exchange now proposes to provide the Suspended Services to all Users, at no charge, for a period of 14 days from the date of filing (''Transition Period''), to enable current Users to maintain their connectivity while establishing alternate connectivity.

Specifically, the Exchange proposes to amend its Price List relating to colocation to provide:

Connectivity to Suspended Third Party Systems and Suspended Third Party Data Feeds

Connectivity to the Third Party Systems and Third Party Data Feeds listed below (''Suspended Services'') is available until May 24, 2021 (''Transition Period''). During the Transition Period, the Exchange will not charge any fees for the Suspended Services. At the conclusion of the Transition Period, any remaining customers of Suspended Services will have their Suspended Services terminated.

Suspended Third Party Systems:
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities
Morgan Stanley
TD Ameritrade

Suspended Third Party Data Feeds:
ICE Data Services—ICE TMC
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities

Application and Impact of the Proposed Changes

The proposed rule change would apply to all Users, each of which would be eligible to receive the Suspended Services, at no charge, for a period of up to 14 days.

Competitive Environment

The proposed changes are not intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and would further the protection of investors and the public interest. Without the proposed rule change, the Suspended Services would be terminated immediately, leaving the current Users without access and connectivity to the Suspended Services. As a result, the Commission's suspension of the services at issue is likely to cause disruption to the current Users of the Suspended Services, who must now acquire substitute services. The Exchange's proposal to provide the Suspended Services, at no charge, to all Users during the Transition Period would give such current Users an opportunity to transition to substitute services without a gap in their service, which would mitigate the disruption and lessen the burden on such current Users.

Further, the Exchange believes that providing a 14-day Transition Period would remove impediments to and perfect the mechanism of a free and open market and a national market system and would protect investors and the public interest. Current Users that wish to replace the Suspended Services will have to investigate their other options, negotiate new terms, and establish and test their new connections. The proposed Transition Period gives current Users time to complete all the steps required to make the transition without having a gap in their connectivity to the Suspended Services.

The Exchange believes that its proposed rule change would perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because it would highlight that the Suspended Services are only available during the Transition Period, that no fee will be charged for the Suspended Services during the Transition Period. At the end of the Transition Period, all Users will have their Suspended Services terminated. It would thereby reduce any potential ambiguity and provide current Users and other market participants with clarity concerning the terms and period of availability of the Suspended Services.

In addition, the Exchange believes that the proposed rule change would promote just and equitable principles of trade. In light of the Commission's suspension, the current Users of the affected services are faced with an unexpected, immediate disruption of their connectivity, while market participants that opted to obtain similar connectivity from alternate providers are is not. The Exchange's proposal to allow all Users to receive the Suspended Services at no charge during the Transition Period would help equalize the treatment of these two groups of market participants by providing the same 14 day prospective period to both groups and giving current Users time to make the transition without having a gap in their connectivity to the third party systems and data feeds at issue.

Finally, the proposed rule change is not designed to permit unfair discrimination between market participants. The proposed rule change would apply equally to all Users. All Users would be entitled to receive the Suspended Services at no charge during the Transition Period. At the conclusion of the Transition Period, any remaining customers of Suspended Services would have their Suspended Services terminated.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to give current Users time to make a fair and orderly transition to substitute services without the disruptions to their operations and, potentially, to the markets that would be caused by an immediate termination of the Suspended Services.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(8).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the 14 day period to take effect immediately. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–31 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSE–2021–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–31, and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10381 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91877]

Order Granting Application by Nasdaq PHLX LLC for an Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

May 12, 2021.

Nasdaq PHLX LLC (''PHLX'' or the ''Exchange'') has filed with the Securities and Exchange Commission (''Commission'') an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] from the rule filing requirements of Section 19(b) of the Act [2] with respect to certain rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') that the Exchange seeks to incorporate by reference.[3] Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

On March 17, 2021, the Commission published notice of the Exchange's proposal to adopt rules that update an existing but outdated reference to an NASD rule to refer instead to a current FINRA rule, and that incorporate certain FINRA rules related to recordkeeping requirements.[4] The proposed rule change was immediately effective upon filing pursuant to Section

[1] 15 U.S.C. 78mm(a)(1).

[2] 15 U.S.C. 78s(b).

[3] *See* Letter from Angela Dunn, Principal Associate General Counsel, to J. Matthew DeLesDernier, Assistant Secretary, Securities and Exchange Commission, dated March 5, 2021 (''Exemptive Request'').

[4] *See* Exchange Act Release No. 91342 (Mar. 17, 2021), 86 FR 15538 (Mar. 23, 2021) (SR–PHLX–2021–13).

19(b)(3)(A)(iii) [5] of the Exchange Act 4, and Rule 19b–4(f)(6) thereunder.[6]

The Exchange has requested, pursuant to Rule 0–12 under the Exchange Act,[7] that the Commission grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Act for changes to those PHLX rules that are effected solely by virtue of a change to a FINRA rule that is incorporated by reference.[8] Specifically, PHLX requests that it be permitted to incorporate changes made to each FINRA rule (or series of rules as the case may be) that is incorporated by reference in the following PHLX Rules, without the need for the Exchange to file separately the same proposed rule changes pursuant to Section 19(b) of the Exchange Act:[9]

- General 9, Section 19 (Discretionary Accounts), which incorporates by reference FINRA Rule 3260;
- General 9, Section 30 (Books and Records), which incorporates by reference FINRA Rule 4511; and
- General 9, Section 45 (Customer Account Information), which incorporates by reference FINRA Rule 4512.

The Exchange states that the direct incorporations by reference of FINRA rules, which are regulatory in nature,[10] are intended to ensure that the Exchange's Rulebook will remain consistent at all times with respect to the Exchange's Rulebook pertaining to Discretionary Accounts, Books and Records, and Customer Account Information, and for that reason, the Exchange believes the exemption is appropriate.[11]

The Exchange represents that, as a condition to the requested exemption from Section 19(b) of the Exchange Act, the Exchange will provide written notice to its members whenever FINRA proposes a change to a cross-referenced rule.[12] Such notice will alert Exchange members to the proposed rule change and give them an opportunity to comment on the proposal.[13]

The Commission has issued exemptions similar to the Exchange's request.[14] In granting one such exemption in 2010, the Commission repeated a prior 2004 Commission statement that it would consider similar future exemption requests from other SROs, provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Act; [15]
- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[16]

The Commission believes that the Exchange has satisfied each of these conditions. The Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of Commission and Exchange resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.[17] Finally, the Commission notes that any changes that the Exchange would make to General 9, Section 19 (Discretionary Accounts), General 9, Section 30 (Books and Records), and General 9, Section 45 (Customer Account Information), other than those changes that incorporate by reference changes to the FINRA rules specifically referenced herein, are not exempted from Section 19(b) of the Exchange Act. The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the following PHLX rules: General 9, Section 19 (Discretionary Accounts), which incorporates by reference FINRA Rule 3260; General 9, Section 30 (Books and Records), which incorporates by reference FINRA Rule 4511; and General 9, Section 45 (Customer Account Information), which incorporates by reference FINRA Rule 4512. This exemption is conditioned upon the Exchange promptly providing written notice to its members whenever FINRA changes a rule that the Exchange has incorporated by reference.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act,[18] that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Act solely with respect to changes to PHLX Rules General 9, Section 19 (Discretionary Accounts), which incorporates by reference FINRA Rule 3260; General 9 Section 30 (Books and Records), which incorporates by reference FINRA Rule 4511; and General 9, Section 45 (Customer Account Information), which incorporates by reference FINRA Rule 4512, provided that the Exchange promptly provides

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(6).

[7] 17 CFR 240.0–12.

[8] *See* Exemptive Request, *supra* note 3, at 2.

[9] *Id.*

[10] *See id.* The Exchange represents that the FINRA rules proposed to be incorporated by reference are not trading rules.

[11] *See id.* at 3.

[12] The Exchange represents that it will provide such notice on its website in the same website location it uses to post its own proposed rule change filings pursuant to Rule 19b–4(l) within the same timeframe required by such Rule. The PHLX website will also include a link to the FINRA website where applicable proposed rule change is posted. *See id.* at 2.

[13] *See id.*

[14] *See, e.g.,* Exchange Act Release Nos. 83296 (May 21, 2018), 83 FR 24362 (May 25, 2018) (order granting NYSE National, Inc.'s exemptive request relating to rules of FINRA incorporated by reference); 83040 (April 12, 2018), 83 FR 17198 (April 18, 2018) (order granting MIAX PEARL's exemptive request relating to rules of MIAX incorporated by reference); 78101 (June 17, 2016), 81 FR 41141, 41165 (June 23, 2016) (order granting application for registration as a national securities exchange of Investors' Exchange, LLC and exemptive request relating to rules of FINRA incorporated by reference); 76998 (January 29, 2016), 81 FR 6066, 6083–84 (February 4, 2016) (order granting application for registration as a national securities exchange of ISE Mercury, LLC (now known as Nasdaq MRX, LLC) and exemptive request relating to rules of the International Securities Exchange, LLC (now known as Nasdaq ISE, LLC) (''ISE'') incorporated by reference, including index options rules); 70050 (July 26, 2013), 78 FR 46622, 46642 (August 1, 2013) (order granting application for registration as a national securities exchange of Topaz Exchange, LLC (now known as Nasdaq GEMX, LLC) and exemptive request relating to rules of ISE incorporated by reference, including index options rules); 61152 (December 10, 2009), 74 FR 66699, 66709–10 (December 16, 2009) (order granting application for registration as a national securities exchange of C2 Options Exchange, Incorporated and exemptive request relating to rules of CBOE incorporated by reference, including index options rules). *See also, e.g.,* Exchange Act Release No. 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.'s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (''BATS Options Market Order'').

[15] *See* 17 CFR 240.0–12; Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Act).

[16] *See* BATS Options Market Order, *supra* note 14 (citing Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (''2004 Order'')).

[17] *See id.* at 8761. *See also* 2004 Order, *supra* note 16, at 8502.

[18] 15 U.S.C. 78mm.

written notice to its members whenever FINRA proposes to change a rule that the Exchange has incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10391 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91881; File No. SR–NSCC–2021–006]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make Clarifications, Corrections and Certain Other Changes to the NSCC Rules & Procedures

May 12, 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 May 7, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to the NSCC Rules & Procedures (''Rules'') in order to (i) correct or clarify the use of certain defined terms in the Rules, (ii) make certain clarifications in the Rules, (iii) make certain technical changes to the Rules, (iv) add a disclaimer regarding trademarks and servicemarks in the Rules and (v) change certain notice provisions relating to rule changes, each as described in more detail below.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NSCC is proposing to (i) correct or clarify the use of certain defined terms in the Rules, (ii) make certain clarifications in the Rules, (iii) make certain technical changes to the Rules, (iv) add a disclaimer regarding trademarks and servicemarks in the Rules and (v) change certain notice provisions relating to rule changes, each as described in more detail below.

(i) Proposal To Correct the Use of Certain Defined Terms in the Rules

Certain capitalized terms are used but not defined, certain terms are defined but the defined terms are not used consistently and certain defined terms are duplicative in the Rules. NSCC is proposing to correct and clarify the use of certain defined terms in the Rules as follows:

- Move the defined term ''Affiliate'' from Rule 4A to Rule 1 as the term is used in a number of places in the Rules and remove '', as defined in Rule 4A'' after the use of the term Affiliate in Section 7 of Rule 7 and Section A of Procedure II
- clarify the definitions of ''Board'' and ''Board of Directors'' in Rule 1 to ensure that it is clear that both terms are defined and have the same meaning
- capitalize ''business day'' throughout the Rules to reflect that it is a defined term
- add a defined term ''Exchange Act'' in Rule 1 for the Securities Exchange Act of 1934, as amended and replace ''Securities Exchange Act of 1934, as amended'' and ''Securities Exchange Act of 1934'' and ''Act'' with the new defined term in a number of places in the Rules
- capitalize ''affiliate'' in the definition of ''Family-Issued Securities'' in Rule 1 to reflect that it is a defined term
- add a defined term ''GAAP'' in Rule 1 as the abbreviation is currently used in a number of places in the Rules to describe generally accepted accounting principles, consistently applied
- delete ''(or IMA Member)'' from the definition of ''Investment Manager/Agent Member'' in Rule 1 and delete ''IMA'' as a defined term in Section 2(j) of Rule 2 as they are duplicative of an existing defined term ''Investment Manager/Agent Member'' that has the same meaning; replace the use of ''IMA Members'' in a footnote in Rule 2A with ''Investment Manager/Agent Members'' using the existing defined term Investment Manager/Agent Member
- add a defined term ''NSCC'' in Rule 1 as the term is currently used in a number of places in the Rules to describe NSCC
- add a defined term ''SEC'' in Rule 1 for the Securities Exchange Commission and replace ''Securities Exchange Commission,'' ''U.S. Securities and Exchange Commission'' and ''Commission'' with the defined term in a number of places in the Rules
- change reference of ''Non-U.S.'' to ''non-U.S.'' in a footnote in Rule 2A to reflect that Non-U.S. is not a defined term
- use the existing defined term ''NSCC website'' rather than other descriptions of the NSCC website such as the ''Corporation's website'' and ''website'' in Section 2 of Rule 2B and ''website'' and ''NSCC's website'' in Section 7 of Rule 45; remove a duplicative definition of NSCC website in Section 7 of Rule 45
- capitalize ''corporation'' in Section 4 of Rule 7 to reflect the existing defined term
- use the existing defined term ''CFTC'' in place of ''Commodity Futures Trading Commission'' in Section 6 of Rule 7 and in place of ''Commodities Futures Trading Commission'' in, Section (b) of Rule 49
- change ''Guidelines'' to ''guidelines'' in Section 2(b)(vii) of Rule 15 to reflect that Guidelines is not a defined term
- change references to ''Time of Insolvency'' to ''time of insolvency'' in Section 4 of Rule 45 to reflect that the term is not defined in the Rules
- capitalize ''rules'' in Section 7 of Rule 45 and in Section C(3) of Rule 52 to reflect the existing defined term
- change ''Fund/Serv Eligible Fund'' to ''Fund/SERV Eligible Fund'' in Section 12 of Rule 50 to reflect the correct capitalization of the defined term

[19] 17 CFR 200.30–3(a)(76).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] Terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

- replace ''the Fund/SERV Service'' with ''Fund/SERV'' in a footnote in Section A.2 of Rule 52 and Section A.10 of Rule 52 to reflect that the defined term Fund/SERV is referring to the Fund/SERV service
- remove references of ''NSCC'' and ''NSCC full service'' before ''Members'' and ''Member'' in Section 1 of Rule 54 and Section A of Procedure XVII as they are unnecessary
- capitalize ''balance'' in the phrase ''Net Debit balance'' and capitalize ''net credit balance'' and ''net debit balance'' in Section 2 of Rule 55 to reflect the existing defined terms
- capitalize the words ''registered clearing agencies'' in a number of places in Section VII of Addendum A to reflect the existing defined term
- replace ''Investment Company'' with ''investment company'' in Section 1.A(v) of Addendum B to reflect that it is not a defined term
- replace ''Principal Underwriter'' with ''principal underwriter'' in Section 3.A(i) of Addendum B to reflect that it is not a defined term
- replace ''Investment Company'' with ''investment company'' in Section 3.A(ii) of Addendum B to reflect that it is not a defined term
- replace ''Investment Adviser'' with ''investment adviser'' in Section 3.A(iii) of Addendum B to reflect that it is not a defined term
- replace ''Services'' with ''services'' in Section 3.A(vi) of Addendum B to reflect that it is not a defined term
- replace ''Investment Company'' with ''investment company'' in Section 5.A(v) of Addendum B to reflect that it is not a defined term
- replace ''Principal Underwriter'' with ''principal underwriter'' in Section 6.A(vi) of Addendum B to reflect that it is not a defined term
- replace ''Investment Adviser'' with ''investment adviser'' in Section 6.A(vii) of Addendum B to reflect that it is not a defined term
- capitalize the word ''system'' in the reference to ''Federal Reserve system'' in Section 10.A.(iii) of Addendum B to be consistent with the use of the reference to Federal Reserve System in other sections of the Rules
- add ''of 1940, as amended'' after Investment Company Act in Section 10.A(vi) of Addendum B to reflect that it is not a defined term
- replace ''registered clearing agencies'' and ''SEC registered clearing agencies'' with ''Registered Clearing Agencies'' in Addendum L to reflect that it is a defined term
- add a definition of ''AML'' in Addendum O to clarify that AML refers to Anti-Money Laundering

(ii) Proposal To Make Certain Clarifications in the Rules

NSCC is proposing to make the following changes in the Rules to better clarify the meaning of certain provisions and the usage of certain defined terms:

- Change ''acting on delegated authority'' to ''acting under delegated authority'' in the definition of ''Board'' and ''Board of Directors'' in Rule 1 to reflect the more common phraseology
- clarify that the NSCC website may include DTCC's website in the definition of ''NSCC website'' in Rule 1
- remove ''decline or'' or ''declined or'' in each instance where the phrase ''decline or cease to act'' or ''declined or ceased to act'' is used in a number of places in the Rules to reflect that declining to act is not different from ceasing to act in the context used in the Rules
- add ''and set forth in these Rules & Procedures'' in the definition of ''Procedures'' to clarify that the defined term Procedures is referring to the Procedures set forth in the NSCC Rules & Procedures
- make ''General Rules and Regulations'' lowercase in the definition of ''Security'' in Rule 1 to reflect that it is not a defined term and add ''promulgated'' to reflect that it is referring to general rules and regulations promulgated under the Exchange Act
- replace ''Corporation'' with ''entity'' in two places in Section 1(G)(v) of Rule 2A to reflect that the phrase is referring to any entity that engages in clearance and settlement activities and not to NSCC
- replace the phrase ''SEC Rule 17a–11'' with ''Rule 17a–11 of the Exchange Act'' in Section 2.A(b) of Rule 2B to reflect that it is referring to Rule 17a–11 promulgated under the Exchange Act
- replace a reference to the ''Securities and Exchange Commission'' with ''Exchange Act'' in Section 1(a) of Rule 3 to clarify that Rule 10b–17 is referring to Rule 10b–17 promulgated under the Exchange Act
- add Mutual Fund/Insurance Services Members and AIP Members as Limited Members that are required to file signatures in Section 2 of Rule 5 in order to formalize that NSCC requires those Limited Members to file signatures in the same manner as the other Members and Limited Members listed in that section
- replace the heading ''Sec'' with ''SEC'' in Section 4 of Rule 9 to conform to usage of section references in other Rules
- remove the word ''for'' in Section 1(a) of Rule 11 as it is unnecessary
- change the phrase ''information and otherwise'' to ''information or otherwise'' in Section 4 of Rule 15 to reflect that the phrase is intended to mean that a participant could be subject to a fine for failure to furnish information or for failure to otherwise comply with the requirements of Rule 15
- capitalize ''important notice'' in Section 3 of Rule 18 to conform to other usage of that term in the Rules
- replace ''Commission Rules 8c–1 and 15c2–1'' with ''Rules 8c–1 and 15c2–1 of the Exchange Act'' in Section 8(b) of Rule 18 to reflect that it is referring to rules promulgated under the Exchange Act
- change the reference of the title ''Vice President'' to ''Executive Director'' in Rule 23 to reflect that NSCC changed the title of Vice President to Executive Director [6]
- clarify in Rule 26 that fee descriptions and charges are set forth in Addendum A by adding the following sentence: ''Please refer to Addendum A (Fee Structure) for fee descriptions and charges.''
- clarify in Rule 35 that the financial statements provided by NSCC are U.S. GAAP financial statements and that the audited financial statements include the independent auditors' report on the financial statements
- replace ''close'' with ''last day'' in two places in Rule 35 to clarify that the close of each fiscal quarter is meant to be the last day of each fiscal quarter
- add ''or Procedure'' in Rule 36 to clarify that NSCC will notify Members, Limited Members and Registered Clearing Agencies of proposals to change, revise, add or repeal any Procedure as well as any Rule
- clarify in Rule 36 that NSCC will notify Members, Limited Members and Registered Clearing Agencies of any rule change proposals to any Rule or Procedure by posting the proposal on the NSCC website
- replace ''five'' with ''5'' in Sections 1 and 3 of Rule 37 to conform to other descriptions of the number of business days in Rule 37

[6] In 2018, the Securities and Exchange Commission (''Commission'') approved NSCC's proposed rule change to amend NSCC's By-Laws to, among other things, change the title of ''Vice President'' to ''Executive Director.'' Securities Exchange Act Release No. 82916 (March 20, 2018), 83 FR 12974 (March 26, 2018) (SR–NSCC–2018–001).

- add ''decision'' after ''Panel's'' in Section 7 of Rule 37 to clarify that in subsection (iii) an action or proposed action shall be deemed final if a hearing has been held when the Corporation gives notice to the Interested Person of the Panel's decision
- change a reference of ''Rules, Procedures'' in Rule 38 to ''Rules and Procedures'' to conform the phrase to other instances in the Rules and add a comma after the phrase for grammatical effect
- remove the references to NSCC delivering notice to an Interested Person's box maintained on NSCC's premises in Section 1 of Rule 45 because NSCC does not maintain boxes for Members, Limited Members or applicants
- add a heading title ''E. MF Info Xchange'' and place the MF Info Xchange description under the heading and remove the subsection reference ''SEC 6.'' in Rule 52 in order to reflect that MF Info Xchange is a separate service from Mutual Fund Profile Service [7]
- replace ''Securities and Commission Rule 15c3–3'' with ''Rule 15c3–3 of the Exchange Act'' in Section 9(b)(vi) of Rule 53 to reflect that it is referring to a rule promulgated under the Exchange Act
- replace ''Securities and Commission Rule 17a–3'' with ''Rule 17a–3 of the Exchange Act'' in Section 9(c)(ii) of Rule 53 to reflect that it is referring to a rule promulgated under the Exchange Act
- remove references to settlement of payments in Section 4 of Rule 57 as NSCC stopped settlement with respect to Licensing and Appointments in 2012 [8]
- replace ''SEC Rule 15c3–3'' with ''Rule 15c3–3 of the Exchange Act'' in Section E(5) of Procedure VII to reflect that it is referring to a rule promulgated under the Exchange Act
- replace ''SEC Rule 15c3–3(d)(1)'' with ''Rule 15c3–3(d)(1) of the Exchange Act'' in Section E(5) of Procedure VII to reflect that it is referring to a rule promulgated under the Exchange Act
- replace ''NSCC's Rule & Procedures'' with ''these Rules and Procedures'' in Section D.2 of Procedure VIII to conform to usage throughout the Rules
- remove ''NSCC's'' and ''NSCC'' before Settling Banks in Section D.2 of Procedure VIII as the reference is unnecessary
- replace ''SEC Rule 15c3–1(a)(8)'' with ''Rule 15c3–1(a)(8) of the Exchange Act'' in Section 1.B.1 of Addendum B to reflect that it is referring to rules promulgated under the Exchange Act
- remove ''it is'' in Section 6.A(v) of Addendum B as it is unnecessary
- remove ''it is'' in Section 6.A(xi) of Addendum B as it is unnecessary
- add ''(as defined in Rule 53)'' in Section 10.A(xi) of Addendum B to reflect that AIP Manufacturer is defined in Rule 53
- replace ''under Section 4 of this Rule'' with ''in Rule 53'' in Section 10.A(xi) of Addendum B to reflect that Eligible AIP Products is defined in Rule 53
- replace ''SEC Rule 15c3–3'' with ''Rule 15c3–3 of the Exchange Act'' in Section I of Addendum G to reflect that it is referring to a rule promulgated under the Exchange Act
- add ''of the Exchange Act'' following Rule 19(b) in Addendum L to reflect that it is a rule promulgated under the Exchange Act
- change references of ''Non-US'' to ''non-U.S.'' in Addendum O to reflect that Non-US is not a defined term
- change reference of ''Standard Requirements'' to ''standard requirements'' in Addendum O to reflect that the term is not defined in the Rules
- change reference of ''US Entities'' to ''U.S. entities'' in Addendum O to reflect the correct abbreviation for U.S. and to reflect that entities is not defined in the Rules
- change a reference from ''the Corporation'' to ''NSCC'' in Addendum O to be consistent with other references to NSCC in Addendum O and to reflect the proposed defined term NSCC

(iii) Proposal To Make Certain Technical Changes in the Rules

NSCC is proposing to make the following technical changes in the Rules to better clarify the meaning of certain provisions and to be consistent with other provisions in the Rules:

- Conform the use of dashes in Section 2 of Rule 2
- delete the parentheses in references to ''Rule 4(A)'' in Rule 4(A) to conform to titles of other Rules
- conform the use of the abbreviation ''SEC'' for ''Section'' or to identify the sections in Rules 42, 44 and 60 and the use of letters to identify subsections in Section 4 of Rule 60 to be consistent with other Rules
- delete the parentheses in the titles of Rule 40, Rule 41 and Rule 60 to conform to titles in other Rules
- add tabs to the paragraphs in Rule 54 to conform with formatting in other Rules
- replace ''Section XII'' with ''Procedure XIII'' in Procedure I to reflect that Procedure XIII contains the definitions referred to in that paragraph
- remove a duplicative use of the word ''plus'' prior to subsection I.(A)(1)(d) of Procedure XV
- replace the subsection reference (i) with (h) in I.(A)(1) of Procedure XV
- replace the subsection reference (g) with (f) in I.(A)(2) of Procedure XV
- replace ''Rule 2A, Section 4 (Ongoing Monitoring (Surveillance Status))'' with ''Rule 2B, Section 4 (Ongoing Monitoring)'' in a footnote in Addendum B as that section is referring to Rule 2B, Section 4
- delete the incorrect use of an apostrophe in Addendum J
- remove a reference to item ''seven'' in Addendum P as there is no item seven in Addendum P

(iv) Proposal To Add a Disclaimer Regarding Trademarks and Servicemarks in the Rules

NSCC is proposing to add a disclaimer in a footnote to Rule 1 regarding trademarks and servicemarks that appear or may appear in the future in the Rules. NSCC has adapted the disclaimer that appears in the Terms of Use page on The Depository Trust & Clearing Corporation's (''DTCC'') website for this purpose. The disclaimer would state that (i) all products and services provided by NSCC referenced in the Rules are either registered trademarks or servicemarks of, or trademarks or servicemarks of, DTCC or its affiliates, and (ii) other names of companies, products or services appearing in the Rules are the trademarks or servicemarks of their respective owners.

While certain terms that are registered trademarks are denoted with a TM or a ® in the Rules, NSCC believes that the addition of this disclaimer provides additional protection to the marks of DTCC and/or its affiliates as well as the marks of third parties.

(v) Proposal To Change Certain Notice Provisions Relating to Rule Changes

NSCC is proposing to delete a requirement in Rule 33 that Members and Limited Members be given 10

[7] MF Info Xchange was added to the Rules in 2018 as an enhancement of the Mutual Fund Profile Service. Securities Exchange Act Release No. 84611 (November 16, 2018), 83 FR 59427 (November 23, 2018) (SR–NSCC–2018–010). Although it is still integrated with the Mutual Fund Profile Service, NSCC would like to market MF Info Xchange as a separate service and not just a function of the Mutual Fund Profile Service.

[8] NSCC removed the settlement function of Licensing and Appointments in 2012 because it was not being used by Members or Limited Members but the references were not removed from the Rules at that time.

business days' notice of any proposed amendment to the Procedures. NSCC is also proposing to replace ''immediately'' with ''promptly'' in Rule 36 in order to provide that NSCC will promptly—but might not immediately—notify Members and Limited Members of any proposed rule changes. NSCC believes that the foregoing requirements are not necessary or practical because, as explained below, Members and Limited Members are already provided adequate notice of any changes or proposed changes to NSCC's Rules or Procedures through the rule change process.

As a clearing agency registered with the Commission, the Securities Exchange Act of 1934 (the ''Act'') provides a clear framework under which NSCC's Rules are adopted and enforced. Under the rule change process, generally, before a proposed rule change may take effect, (i) the change and an explanatory statement must be filed with the Commission and posted by NSCC on the NSCC website, (ii) notice of the filing and the substantive terms or description of the change must be published by the Commission in the **Federal Register** for public review and comment, and (iii) the Commission must approve the change (or the change must otherwise be permitted to take effect). NSCC's Rules are filed with and reviewed by the Commission. As a clearing agency registered under Section 17A of the Act,[9] a self-regulatory organization subject to Section 19 of the Act,[10] and a systemically important financial market utility under Title VIII of Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank''),[11] NSCC is required to follow: (1) A specified process [12] whenever it proposes a new rule or a change or amendment to its Rules and (2) a specified process [13] whenever it proposes to make a change to its rules, procedures or operations that could materially affect the nature or level of risks presented by NSCC.

These rule change processes provide notice to Members and Limited Members and provide an opportunity for those parties to comment on such changes. Rule 19b–4 under the Act requires that NSCC post any rule change proposals on its website within two business days after the filing of a proposed rule change,[14] post any rule changes that are approved by the Commission within two business days after it has been notified of the Commission's approval [15] and post any rule change within two business days of the Commission's notice of such proposed change for rule changes that are effective upon filing.[16] NSCC complies—and will continue to comply—with such notice requirements which it believes are adequate.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.[17]

NSCC believes that the proposed changes to (i) correct or clarify the use of certain defined terms in the Rules, (ii) make certain clarifications in the Rules, (iii) make certain technical changes to the Rules and (iv) add a disclaimer regarding trademarks and servicemarks in the Rules are consistent with Section 17(A)(b)(3)(F) of the Act [18] because such changes would enhance the clarity and transparency of the Rules. By enhancing the clarity and transparency of the Rules, the proposed changes would allow Members and Limited Members to more efficiently and effectively conduct their business in accordance with the Rules, which NSCC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, NSCC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.[19]

NSCC believes that the proposed changes would enhance the efficiency of NSCC's process for notifying its Members and Limited Members about changes to its Rules and Procedures. As discussed above in detail, NSCC believes that Members and Limited Members are already provided adequate notice of any rule changes, including changes to its Procedures, through the rule change process. As such, the requirements for NSCC to immediately provide notice of any proposal it has made to change any Rule and to provide ten Business Days' notice of any proposed amendment to the Procedures are impractical and unnecessary and therefore can negatively impact the efficiency of the process. Specifically, because NSCC is already subject to—and complies with—the timeframes required by the Act and Dodd Frank, NSCC believes that self-imposed requirements to provide notice more quickly (in the case of proposed rule changes) or farther in advance (in case of changes to Procedures) than what is required by statute is unnecessary. In addition, NSCC believes that the requirements are impractical because (i)(x) the requirement to immediately give notice requires NSCC to coordinate an almost simultaneous submission of a proposed rule filing and notification to Members and Limited Members, and (y) Members and Limited Members would not be prejudiced by the delta between immediately and promptly; and (ii) the requirement to provide Members and Limited Members notice of changes to Procedures ten Business Days in advance, especially when such parties already receive adequate notice of the changes, could cause delays in the rule filing process and/or the implementation of an amended rule and procedure. Accordingly, NSCC believes that, by removing unnecessary and impractical timing requirements for notice, the proposed rule change is designed to enhance the efficiency of NSCC's notice process and implementation of the amended Rules and Procedures, thereby promoting the prompt and accurate clearance and settlement of securities transactions, as provided under such amended Rules and Procedures. As such, NSCC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.[20]

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe the proposed rule changes to (i) correct or clarify the use of certain defined terms in the Rules, (ii) make certain clarifications in the Rules, (iii) make certain technical changes to the Rules, (iv) add a disclaimer regarding trademarks and servicemarks in the Rules and (v) change certain notice provisions relating to rule changes would impact competition. The proposed rule changes described in (i)–(iv) above would merely enhance the clarity and transparency of the Rules and would not affect NSCC's operations or the rights and obligations of the membership. While the proposed changes to the notice provisions described in (v) above would impact the rights and obligations of the Members and Limited Members to receive notices more quickly (in the case of proposed rule changes) or farther in advance (in case of changes to Procedures) than

[9] 15 U.S.C. 78q–1.

[10] 15 U.S.C. 78s.

[11] 12 U.S.C. 5465(e)(1).

[12] This process is set forth in Section 19(b) of the Act and Rule 19b–4 thereunder. 15 U.S.C. 78s(b) and 17 CFR 240.19b–4.

[13] This process is set forth in Section 806(e) of Dodd-Frank and Rule 19b–4 thereunder. 12 U.S.C. 5465(e) and 17 CFR 240.19b–4.

[14] 17 CFR 240.19b–4(l).

[15] 17 CFR 240.19b–4(m)(2).

[16] *Id.*

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] *Id.*

[19] *Id.*

[20] *Id.*

what is required by statute, the impact of the proposed changes on the Members and Limited Members would be minimal. As discussed above, NSCC believes that the proposed changes to the notice provisions are removing unnecessary and impractical timing requirements for notices, and Members and Limited Members would continue to receive adequate notice under the rule change process and continue to be treated equally with respect to such notices. As such, NSCC believes the proposed rule changes would not have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [21] of the Act and paragraph (f) [22] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2021–006 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NSCC–2021–006. 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 NSCC and on DTCC's website (*https://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2021–006 and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10392 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91864; File No. SR–BX–2021–022]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of BX's Request for PRISM

May 12, 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 May 4, 2021, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of an amendment to Options 3, Section 7(d)(1)(A) relating to ''Financial Information eXchange'' or ''FIX'' in connection with offering BX Participants the ability to utilize FIX to submit orders to its Price Improvement Auction (''PRISM'') mechanism.

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

BX received approval [3] to amend Options 3, Section 7(d)(1)(A), relating to FIX, to offer BX Participants the ability to utilize FIX to submit orders to its PRISM mechanism. BX's amendment permitted it to offer Participants a manner in which to send messages

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91124 (February 12, 2021), 86 FR 10363 (February 19, 2021) (SR–BX–2020–033) (Order Granting Approval of a Proposed Rule Change To Utilize the FIX Protocol To Submit Orders to BX's Price Improvement Auction Mechanism) (''Approval Order'').

through FIX, to other BX Participants, for the specific purpose of requesting another BX Participant submit an ''Initiating Order'' [4] along with the sender's PRISM Order [5] into the PRISM mechanism [6] for execution pursuant to Options 3, Section 13.

Specifically, the amendment expanded the capabilities of the FIX protocol to allow a BX Participant (sender) to utilize FIX to send a message to other BX Participants (responders) with an order the sender represents as agent (''PRISM Order'') on behalf of a Public Customer, broker dealer or other entity requesting the responders provide a contra-side Initiating Order (a ''response'') and begin a PRISM auction (collectively a ''Request for PRISM'').[7] If a BX Participant desires to respond to the request, the BX Participant adds an Initiating Order to the sender's PRISM Order and submits the paired order directly into PRISM, through FIX, for processing in accordance with Options 3, Section 13.[8]

The Exchange intended to begin implementation of the proposed rule change by June 30, 2021.[9] At this time, the Exchange proposes to delay the implementation so that it would begin implementation prior to November 1, 2021. The Exchange will issue an Options Trader Alert to Participants with the date of implementation.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to 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 delaying the implementation of its amendment to Options 3, Section 7(d)(1)(A) to allow the Exchange additional time to develop and test this functionality. The Exchange believes that additional testing will ensure a successful launch of the functionality.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the adoption of the amendment to Options 3, Section 7(d)(1)(A) does not impose an undue burden on competition. Delaying the implementation of the functionality will allow the Exchange additional time to develop and test the functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2021–022 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–2021–022. 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–BX–2021–022 and should be submitted on or before June 8, 2021.

[4] An Initiating Order is an order executed against principal interest or against any other order it represents as agent. *See* Options 3, Section 13.

[5] A PRISM Order is an order submitted by a BX Participant that it represents as agent on behalf of a Public Customer, broker dealer, or any other entity, electronically, for execution. *See* Options 3, Section 13.

[6] This proposal does not amend the PRISM rule within Options 3, Section 13 in connection with offering Participants the ability to submit a Request for PRISM through FIX.

[7] The Request for PRISM, if accepted and submitted into PRISM, would become the ''PRISM Order'' pursuant to Options 3, Section 13.

[8] BX Participants may elect to ''opt in'' to receive Requests for PRISM. BX Participants that do not elect to ''opt in'' will not receive such requests. Once a BX Participant elects to receive Requests for PRISM, they would receive all requests from any BX Participant submitting a Request for PRISM. The BX Participant cannot elect to only receive requests from certain Participants and the sender may not elect to send the request to a select group of BX Participants.

[9] *See* Approval Order page 10364, ''The Exchange intends to begin implementation of the proposed rule change by June 30, 2021.''

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10386 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91876; File No. SR–FINRA–2021–009]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt a Supplemental Liquidity Schedule, and Instructions Thereto, Pursuant to FINRA Rule 4524 (Supplemental FOCUS Information)

May 12, 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 30, 2021, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to adopt a Supplemental Liquidity Schedule, and Instructions thereto, pursuant to FINRA Rule 4524 (Supplemental FOCUS Information).

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

FINRA Rule 4524 provides in part that, as a supplement to filing FOCUS Reports required pursuant to SEA Rule 17a–5[3] and FINRA Rule 2010, each member, as FINRA shall designate, shall file such additional financial or operational schedules or reports as FINRA may deem necessary or appropriate for the protection of investors or in the public interest. Pursuant to FINRA Rule 4524, FINRA is proposing to adopt a Supplemental Liquidity Schedule (''SLS''), and Instructions thereto (the ''Instructions'').[4] The proposed SLS, which would be filed as a supplement to the FOCUS Report, is tailored to apply only to members with the largest customer and counterparty exposures, as discussed further below. The SLS is designed to improve FINRA's ability to monitor for events that signal an adverse change in the liquidity risk of the members that would be subject to the requirement.

Effective monitoring of liquidity and funding risks is an essential element of members' financial responsibility and an ongoing focus for FINRA's financial supervision programs. Liquidity and funding stress was a significant factor in the financial crisis of 2008.[5] Since that time, FINRA has looked closely at members' liquidity and funding risk management practices.[6] *Regulatory Notice* 10–57 expressed FINRA's expectation that members develop and maintain robust funding and liquidity risk management practices and discussed results of examinations that FINRA had conducted of the practices of selected members. In addition, *Regulatory Notice* 15–33 provided guidance on liquidity risk management practices and described FINRA's review of policies and practices at selected members related to managing liquidity needs in a stressed environment. FINRA believes that the proposed SLS is a logical complement to these ongoing priorities and guidance that FINRA has communicated to members and would provide essential information about members' sources and uses of liquidity to enable FINRA to better understand their liquidity profile. FINRA notes that events in connection with market volatility and other stress stemming from the COVID–19 pandemic,[7] and events such as the extreme price volatility of certain stocks in January 2021,[8] have reinforced the importance of effective liquidity risk monitoring. As such, FINRA believes that the proposed SLS is necessary to enhance its ongoing monitoring of members' liquidity risk and to have additional information that can be used to assess the impact of stress events on a member's liquidity. Members that would be subject to the SLS requirement would provide detailed reporting, using the SLS, as to their:

- Reverse repurchase and repurchase agreements;
- securities borrowed and securities loaned;
- non-cash reverse repurchase and securities borrowed transactions;
- non-cash repurchase and securities loaned transactions;
- bank loan and other committed and uncommitted credit facilities;
- total available collateral in the member's custody;
- margin and non-purpose loans;

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.17a–5 (hereinafter cited as SEA ''Rule 17a–5''). SEA Rule 17a–5 governs financial and operational reporting by brokers and dealers. Members are required to file with FINRA, through the eFOCUS System, reports concerning their financial and operational status using SEC Form X–17A–5 (the ''FOCUS Report''). *See, e.g., Information Notice,* November 23, 2020 (2021 and First Quarter of 2022 Report Filing Due Dates); *Regulatory Notice* 18–38 (November 2018) (Amendments to the SEC's Financial Reporting Requirements—eFOCUS System Updates and Annual Audit Requirements). ''FOCUS'' stands for Financial and Operational Combined Uniform Single.

[4] The proposed SLS and Instructions are included as Exhibit 3 to this rule filing.

[5] *See, e.g.,* Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States (January 2011), available at: <*https://fraser.stlouisfed.org/title/financial-crisis-inquiry-report-5034*>.

[6] *See Regulatory Notice* 10–57 (November 2010) (Risk Management) and *Regulatory Notice* 15–33 (September 2015) (Liquidity Risk). However, even prior to the financial crisis, FINRA noted the importance of risk management practices. *See, e.g., Notice to Members* 99–92 (November 1999) (Risk Management Practices) (setting forth a joint statement by the SEC, NASD and NYSE on broker-dealer risk management practices). FINRA has also discussed liquidity risk in its Annual Regulatory and Examination Priorities Letters. *See, e.g.,* 2019 Annual Risk Monitoring and Examination Priorities Letter, available at: <*finra.org*>.

[7] *See, e.g.,* S.P. Kothari et al., U.S. Credit Markets: Interconnectedness and the Effects of the COVID–19 Economic Shock (October 2020) (report of the SEC Division of Economic and Risk Analysis regarding market stress during the COVID–19 shock of March 2020), available at: <*https://www.sec.gov/files/US-Credit-Markets_COVID-19_Report.pdf*>.

[8] *See* Acting Chair Allison Herren Lee, Commissioners Hester M. Peirce, Elad L. Roisman, and Caroline A. Crenshaw, Public Statement Regarding Recent Market Volatility (January 29, 2021), available at: <*https://www.sec.gov/news/public-statement/joint-statement-market-volatility-2021-01-29*>.

- collateral securing margin loans;
- deposits at clearing organizations; and
- cash and securities received and delivered on derivative transactions not cleared through a central clearing counterparty (''CCP'').

In developing the proposed SLS, FINRA has engaged in extensive outreach and discussions with industry participants. In January 2018, FINRA published an earlier version of the proposed SLS for comment [9] and, as discussed further below, in response to comments, and based on dialogue with and feedback from industry participants, has tailored and clarified the proposed SLS and Instructions. Under the proposed SLS, unless otherwise permitted by FINRA in writing, the SLS would be required to be filed by each carrying member with $25 million or more in free credit balances, as defined under SEA Rule 15c3–3(a)(8),[10] and by each member whose aggregate amount outstanding under repurchase agreements, securities loan contracts and bank loans is equal to or greater than $1 billion, as reported on the member's most recently filed FOCUS report. The SLS must be completed as of the last business day of each month (the ''SLS date'') and filed within 24 business days after the end of the month. A member need not file the SLS for any period where the member does not meet the $25 million or $1 billion thresholds.[11]

FINRA notes that, with these $25 million and $1 billion thresholds, the proposal would apply to approximately 85 to 100 members that have the largest customer and counterparty exposures, and as such, is tailored to apply to members whose liquidity events could have the greatest potential impact on customers, counterparties, and markets.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 30 days following Commission approval. The effective date will be no later than 180 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Consistent with the provisions of the Act, the proposed rule change will enable FINRA to more effectively monitor the liquidity risk of members with the largest customer and counterparty exposures, thereby enhancing FINRA's ability to supervise the financial responsibility of larger member firms and maintain investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed SLS is designed to improve FINRA's ability to monitor liquidity risk of the members that would be subject to the requirement and provide additional warning of market stress. FINRA has designed the proposed SLS to achieve its intended and necessary regulatory purpose while minimizing the burden on firms. Ready access to the information is important for FINRA to efficiently monitor on an ongoing basis the liquidity profile of members. In particular, the information would facilitate FINRA's efforts to understand and respond to firms that may appear similar based on their balance sheet, but in fact have different liquidity risk profiles, which could negatively impact their ability to fund their operations during periods of market or other stress events. In the absence of this reporting requirement, FINRA would need to request this information repeatedly on a firm-by-firm basis as need arises, resulting in similar, or even potentially larger, costs for the firms.

FINRA notes that, as discussed above, the proposal would apply to approximately 85 to 100 members that meet the thresholds as defined by the proposal. Given that these firms have the largest customer and counterparty exposures, they are likely to have the largest potential liquidity risk, to which the proposed SLS is aimed at providing increased monitoring and transparency. The underlying information required to complete the proposed SLS should be readily available to members due to members' obligations to maintain books and records for those items required to be reported on the SLS.

FINRA further notes that out of the approximately 85 to 100 firms for which the proposal would apply to, about one quarter of those are members of large bank holding companies (''BHCs''). This subset of firms are required to provide similar information in reporting at the BHC and material entity level to the Federal Reserve Board.[13] FINRA believes that the threshold for the SLS reporting requirement may result in some competitive effects, for firms that fall above or below the reporting threshold, in addition to firms that do and do not report overlapping information through the FR 2052a report. However, the overall direction of these effects is not clear, and FINRA does not believe the effects are significant when weighed against the value of the SLS report. FINRA has reviewed in this regard the information requested by the proposed SLS versus the information requested by the FR 2052a report. A broker-dealer that is a material entity within a BHC may report some of the same information under this proposal that the broker-dealer provides for purposes of the FR 2052a report.[14] To the extent there is some overlap in reporting, FINRA expects that additional costs from providing the information for purposes of the SLS would be minimal. These firms should be able to rely on their existing compliance systems and infrastructure for the reporting of these items. However, some costs are anticipated due to differences in the information required for the two reports and differences in the frequency of the

[9] *See Regulatory Notice* 18–02 (January 2018) (Liquidity Reporting and Notification).

[10] 17 CFR 240.15c3–3 (hereinafter cited as SEA ''Rule 15c3–3'').

[11] FINRA notes that members that have elected to be treated as capital acquisition brokers (''CABs'') would be subject to the rule change to the extent that FINRA Rule 4524, pursuant to CAB Rule 452(b), applies to CABs. However, the proposed rule change would unlikely impact CABs. The proposed $25 million free credit balances threshold applies to carrying members and as such would not affect CABs because, pursuant to CAB Rule 016(c)(2), CABs are prohibited among other things from carrying customer accounts, or from holding or handling customer funds or securities. With respect to the proposed $1 billion threshold, FINRA believes that it is unlikely any CABs would meet this level of financing given the limited nature of their business under the CAB rules.

The proposed rule change would not apply to funding portal members because such members are not subject to Rule 4524. Even if Rule 4524 were to apply, the rule change would unlikely affect funding portal members because, pursuant to Regulation Crowdfunding Rule 300(c)(2)(iv), such members are prohibited from holding, possessing, managing or otherwise handling investor funds or securities. Further, again by virtue of the limited nature of their business, funding portal members are unlikely to meet the proposed $1 billion threshold.

[12] 15 U.S.C. 78*o*–3(b)(6).

[13] This reporting is done using the Complex Institution Liquidity Monitoring Report (FR 2052a) (hereinafter referred to as the ''FR 2052a report''), available at: <*https://www.federalreserve.gov/apps/reportforms/default.aspx*>.

[14] The instructions to the FR 2052a report provide that ''. . . each material entity required to report will report on a consolidated basis,'' except as otherwise specified in the instructions.

reporting. Where this reporting is not duplicative, firms will incur some start-up costs to establish the reporting system and then ongoing costs in providing the information, and the relevant supervisory and compliance systems. In contrast, firms that are not within a BHC will incur new start-up costs that may be greater than the incremental start-up costs of firm within a BHC, while firms below the threshold will not incur these costs. Nonetheless, FINRA believes the thresholds are well tailored to require disclosure from firms whose liquidity impacts substantially outweigh the collection and reporting costs of the SLS.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in *Regulatory Notice* 18–02 (January 2018) (the ''*Notice*''). Three comments were received in response to the *Regulatory Notice.*[15] Exhibit 2a is a copy of the *Regulatory Notice.* Exhibit 2b contains copies of the comment letters received in response to the *Regulatory Notice.* Below is a summary of the comments and FINRA's responses.

In the *Notice,* in addition to seeking comment on a proposed earlier version of the SLS, FINRA sought comment on proposed amendments to FINRA Rule 4521 (Notifications, Questionnaires and Reports) that would have imposed additional requirements on members subject to the SLS to notify FINRA no more than 48 hours after specified events that may signal an adverse change in liquidity risk. Most of the concerns expressed by commenters focused on these proposed amendments to Rule 4521. In particular, SIFMA and Vining Sparks expressed concern that the proposed amendments were complex and operationally burdensome, were in need of further clarification, should be tailored to permit members to use models specific to their firms, or should be aligned or coordinated with potential future Commission action in the area of broker-dealer liquidity and risk monitoring. In response, FINRA notes that it has been engaging, and plans to continue to engage, with industry participants and with other regulators with regard to these concerns and will give further consideration as to potential rule changes to address effective liquidity monitoring. As such, FINRA is not at this time proposing amendments to Rule 4521 as part of the proposed rule change.

With regard to the proposed SLS as originally proposed in the *Notice,* all three commenters suggested clarifications and revisions. William Blair and Vining Sparks expressed concern that, because the $25 million threshold as proposed in the *Notice* would have been based on ''total credits'' under Exhibit A of Rule 15c3–3, smaller firms that engage mostly in institutional trades on a delivery versus payment/receive versus payment (''DVP/RVP'') basis would fall within the proposed requirement by virtue of the credits they are obliged to report in connection with ''failed to receive'' transactions. Commenters believed this would include firms whose business activities do not present significant liquidity risk in the SLS reporting requirement. In response, FINRA has engaged with industry participants and has revised the $25 million threshold to reference ''free credit balances'' as defined under SEA Rule 15c3–3(a)(8). FINRA believes that referencing free credit balances for the $25 million threshold more directly identifies firms that should be subject to the SLS and is consistent with FINRA's intent to reach only members with the highest potential liquidity risk. As discussed above, the proposal would apply to approximately 85 to 100 firms, generally FINRA's largest members, which is the appropriate scope in light of its regulatory purpose. Vining Sparks expressed concern that the SLS, as originally proposed in the *Notice,* would require disclosure of the names of the reporting member's top five counterparties for certain of the specified categories of information, which Vining Sparks suggested could raise privacy and confidentiality concerns. In response, FINRA has revised the Instructions to the proposed SLS so that members would have the option to specify a counterparty type or name in the portions of the SLS that request top five counterparty information. FINRA believes that permitting members this flexibility is appropriate because specifying counterparty types rather than counterparty names achieves the overall goal of helping to understand and monitor the impact from counterparties on the liquidity profile of the member submitting the SLS. Further, FINRA notes that it has the ability to request further information as to any counterparty transaction should such be warranted.

SIFMA expressed concern that the purpose of and need for the SLS as proposed in the *Notice* is unclear, that the SLS would require the disclosure of information that should be kept confidential, that the proposal is duplicative of requirements that apply to firms that are already part of BHCs, that the proposal should not go forward until the SEC acts in the area of liquidity monitoring, and that the information required on the proposed SLS is unhelpful or unnecessary to understanding a firm's liquidity or is operationally burdensome to track. FINRA engaged with industry participants and SIFMA to discuss these concerns.

FINRA believes that the purpose of, and regulatory need for, the proposal, as set forth in the *Notice* and as reiterated in this filing, is clear. To address the concerns expressed by commenters with regard to the potential burdens of the proposal, FINRA, based on extensive discussions with industry participants, has made several revisions to the proposed SLS. For example, FINRA has revised the proposed SLS so that members with de minimis total reverse repurchase or repurchase agreements may elect not to complete the securities collateral subcategories in Lines 1 through 5 under Reverse Repurchase and Repurchase Agreements, and may elect not to complete the Top Five Counterparties portion that corresponds with that section.[16] As revised, also under the Reverse Repurchase and Repurchase Agreements section, the proposed SLS would permit members flexibility to allocate contracts collateralized by more than two security types among those types of collateral for purposes of their reporting. With regard to reporting counterparties, FINRA has revised the SLS so that members electing to report counterparties by type rather than by name will be permitted to use the counterparty classifications and definitions given in the FR 2052a report, thereby helping members in BHCs align their SLS reporting with the FR 2052a report. Similarly, FINRA has added language to the proposed SLS designed to align reporting for non-cash

[15] *See* Letter from Allen Riggs, CFO, Vining Sparks IBP, L.P., to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated February 21, 2018 (''Vining Sparks''); Letter from Jon Zindel, Chief Financial Officer, William Blair & Company, LLC, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated March 7, 2018 (''William Blair''); and Letter from Mary Kay Scucci, Managing Director, Securities Industry and Financial Markets Association, to Jennifer Piorko Mitchell, Office of the Corporate Secretary, FINRA, dated March 8, 2018 (''SIFMA'').

[16] Members would need to complete Lines 6a, 6b, 6c and 7, as applicable. FINRA has made a corresponding revision to the Securities Borrowed and Securities Loaned section.

and collateral upgrade transactions with members' other regulatory reporting.[17]

SIFMA requested that FINRA further clarify the reporting date for the SLS, and suggested that data should be reported as of month-end. In response, FINRA has revised the SLS to provide that the SLS must be completed as of the last business day of each month (as noted above, the SLS date) and filed within 24 business days after the end of the month. FINRA notes the 24 business days is meant to afford members additional time to file versus the 22 business days as proposed in the *Notice.* SIFMA requested clarification as to who within a member would be responsible for completing the proposed SLS. In response, it is not FINRA's intention to impose an additional potential burden by designating specific persons within the firm that would need to complete the SLS. Given the SLS is intended as a supplement to the FOCUS reporting for which a member is already responsible, FINRA understands that members may handle the SLS as a financial and operational report consistent with their FOCUS and other financial-related reporting processes and obligations.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2021–009 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–FINRA–2021–009. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2021–009 and should be submitted on or before June 8, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10390 Filed 5–17–21; 8:45 am]

BILLING CODE 8011–01–P

[17] FINRA has made additional miscellaneous revisions to the SLS designed to clarify categories in the Instructions such as ''term loans'' and ''deposits at clearing organizations.'' Further, in the Instructions, FINRA has also revised the Bank Loan and Other Committed and Uncommitted Credit Facilities section to clarify that Line 4 under that section (Drawn Amounts of Uncommitted Credit Facilities) includes, for example, commercial paper.

[18] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice Number: 11424]

Overseas Schools Advisory Council Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Summer Committee Meeting on Thursday, June 17, 2021, from 11:00 a.m. until approximately 2:30 p.m. Based on federal and state guidance in response to the COVID–19 pandemic, this meeting will be held virtually. In accordance with the Federal Advisory Committee Act (FACA), the meeting will be made available to the public; see below.

The Overseas Schools Advisory Council works closely with the U.S. business community on improving those American-sponsored schools overseas that are assisted by the Department of State and attended by dependents of U.S. government employees, and the children of employees of U.S. corporations and foundations abroad.

This meeting will address issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. There will be a report and discussion about the status of the Council-sponsored Child Protection Project and discussion on the most recent project addressing school based mental health issues. Moreover, the Regional Education Officers in the Office of Overseas Schools will make presentations on the activities and initiatives in the American-sponsored overseas schools.

Members of the public may attend the meeting virtually and join in the discussion, subject to the instructions of the Chair. Members of the public who plan to virtually attend should advise the office of Mr. Thomas Shearer, Office of Overseas Schools, Department of State, telephone 202–261–8200, prior to June 10, 2021. Interested members of the public will be asked to provide their name and preferred email address and whether they need reasonable accommodation, and a valid link will be sent prior to the meeting. The link provided to attendees should not be shared with other individuals.

Amanda E. Rydel,

Administrative Officer, Office of Directives Management.

[FR Doc. 2021–10395 Filed 5–17–21; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice: 11425]

Determination Under Subsection 402(d)(1) of the Trade Act of 1974, As Amended—Continuation of Waiver Authority

Pursuant to the authority vested in the President under the Trade Act of 1974, as amended, Public Law 93–618, 88 Stat. 1978 (hereinafter ''the Act''), and assigned to the Secretary of State by virtue of Section 1(a) of Executive Order 13346 of July 8, 2004, and delegated by Department of State Delegation of Authority 245–2, of July 31, 2017, I determine, pursuant to Section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by Section 402 of the Act will substantially promote the objectives of Section 402 of the Act. I further determine that continuation of the waiver applicable to Turkmenistan will substantially promote the objectives of Section 402 of the Act.

This Determination shall be published in the **Federal Register**.

Dated: April 13, 2021.

Daniel Smith,

Acting Deputy Secretary of State.

[FR Doc. 2021–10468 Filed 5–17–21; 8:45 am]

BILLING CODE 4710–46–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of the First United States-Mexico-Canada Agreement Environment Committee Meeting

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting and request for comments.

SUMMARY: The Parties to the United States-Mexico-Canada Agreement (USMCA) intend to hold the first meeting of the Environment Committee (Committee) virtually, on June 17, 2021. Following the government-to-government meeting, the Committee will hold a virtual public session. The Office of the United States Trade Representative (USTR) will accept comments on suggestions for topics to be discussed during the Committee meeting, and questions for the public session.

DATES:

June 17, 2021, from 3:00 p.m. to 5:00 p.m. EST: The Parties' will host a virtual public session of the Committee.

June 4, 2021, at 11:59 p.m. EST: Deadline for submission of written comments on suggestions for meeting topics and questions for the public session.

ADDRESSES: Submit written comment to Sarah Lopp, Director for Environment and Natural Resources, by email at *sarah.b.lopp@ustr.eop.gov* with the subject line ''USMCA Environment Committee Meeting''.

FOR FURTHER INFORMATION CONTACT: Sarah Lopp, Director for Environment and Natural Resources, at *sarah.b.lopp@ustr.eop.gov*, or 202–881–9034.

SUPPLEMENTARY INFORMATION:

I. Background

Article 24.26 of the USMCA establishes an Environment Committee composed of senior government representatives. The Committee oversees implementation of the Environment Chapter and provides a forum to discuss and review implementation issues. USMCA requires the Committee to meet within one year of the date of entry into force and every two years thereafter unless the Parties otherwise agree. All Committee decisions and reports will be made publicly available, unless the Parties decide otherwise. The Committee will provide for public input on matters relevant to its work, as appropriate, and hold a public session at each meeting.

II. Committee Meeting

On June 17, 2021, the Committee will meet virtually in a government-to-government session. During the meeting the Parties will: (1) Review implementation of Chapter 24 (Environment), and discuss how the Parties are meeting their Chapter 24 obligations, and (2) receive a presentation from the Commission on Environmental Cooperation (CEC) Secretariat on cooperation and public Submissions for Enforcement Matters (SEMs). This session will not be open to the public.

III. Public Session on USMCA Chapter 24 Implementation

Following the government-to-government session, the Committee invites all interested persons to attend a virtual public session on USMCA Chapter 24 implementation. At the public session, the Committee will welcome questions, input, and information concerning implementation of the Chapter 24 obligations. The Committee will address questions raised in comments submitted to USTR, and through a live chat function overseen by a moderator. Prior to the meeting, USTR will make details on how to access the public session available on the USTR website at *https://ustr.gov/issue-areas/environment.*

IV. Comments

USTR invites all interested persons to submit specific questions and comments on topics and issues for the U.S. government to consider as it prepares for the Committee meeting. As noted, during the public session the public will be able to ask questions through a chat function overseen by a moderator. The Committee will address both questions raised in written comments in advance and through the live chat. When preparing comments, we encourage submitters to refer to Chapter 24 of the USMCA, which you can access at: *https://ustr.gov/sites/default/files/files/agreements/usmca/24Environment.pdf.*

Kelly Milton,

Assistant U.S. Trade Representative for Environment and Natural Resources, Office of the United States Trade Representative.

[FR Doc. 2021–10434 Filed 5–17–21; 8:45 am]

BILLING CODE 3290–F1–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2021–0055 (Notice No. 2021–04)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on four information collections pertaining to hazardous materials transportation for which PHMSA intends to request renewal from the Office of Management and Budget.

DATES: Interested persons are invited to submit comments on or before July 19, 2021.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA–2021–0055 (Notice No. 2021–04) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200

New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2021–0055) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Requests for a copy of an information collection should be directed to Steven Andrews or Shelby Geller, Standards and Rulemaking Division, (202) 366–8553, *ohmspra@dot.gov,* Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA; 5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' PHMSA will place any redacted portions of those submissions in the public docket of this notice. Submissions containing CBI should be sent to Steven Andrews or Shelby Geller, Standards and Rulemaking Division and addressed to the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or *ohmspra@dot.gov.* Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the public docket for this notice.

FOR FURTHER INFORMATION CONTACT: Steven Andrews or Shelby Geller, Standards and Rulemaking Division, (202) 366–8553, *ohmspra@dot.gov,* Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to the Office of Management and Budget (OMB) for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** upon OMB's approval.

PHMSA requests comments on the following information collections:

Title: Rulemaking, Special Permits, and Preemption Requirements.

OMB Control Number: 2137–0051.

Summary: This information collection applies to procedures for requesting changes, exceptions, and other determinations in relation to the HMR. Specific areas covered in this information collection include part 105, subparts A and B, ''Hazardous Materials Program Definitions and General Procedures''; part 106, subpart B, ''Participating in the Rulemaking Process''; part 107, subpart B, ''Special Permits''; and part 107, subpart C, ''Preemption.'' The Federal hazardous materials transportation law directs the Secretary of Transportation to prescribe regulations for the safe transportation of hazardous materials in commerce. PHMSA is authorized to accept petitions for rulemaking and appeals, as well as applications for special permits, preemption determinations, and waivers of preemption. The types of information collected include:

(1) *Petitions for Rulemaking:* Any person may petition PHMSA to add, amend, or delete a regulation in parts 110, 130, 171 through 180, or may petition the Office of the Chief Counsel to add, amend, or delete a regulation in parts 105, 106, or 107. Petitions submitted to PHMSA are required to contain information as specified by § 106.100 of the HMR.

(2) *Appeals:* Except as provided in § 106.40(e), any person may submit an appeal to our actions in accordance with the Appeals procedures found in §§ 106.110 through 106.130.

(3) *Applications for Special Permit:* Any person applying for a special permit must include the citation of the specific regulation from which the applicant seeks relief; specification of the proposed mode or modes of transportation; detailed description of the proposed special permit (*e.g.,* alternative packaging, test, procedure, or activity), including as appropriate, written descriptions, drawings, flow charts, plans and other supporting documents, etc. Under this OMB control number, applicants may apply for a new special permit, renew or modify an existing special permit, or request party status to a special permit. These procedures can be found in part 107, subpart B of the HMR.

(4) *Applications for Preemption Determination:* With the exception of highway routing matters covered under 49 U.S.C. 5125(c), any person directly affected by any requirement of a State, political subdivision, or Native American Tribe may apply to the Chief Counsel for a determination whether that requirement is preempted by § 107.202(a), (b), or (c). The application must include the text of the State, political subdivision, or Native American Tribe requirement for which the determination is sought; specify each requirement of the Federal hazardous materials transportation law, regulations issued under the Federal hazardous material transportation law, or hazardous material transportation security regulations or directives issued by the Secretary of Homeland Security with which the applicant seeks the State, political subdivision, or Native

American Tribe requirement to be compared; explain why the applicant believes the State, political subdivision, or Native American Tribe requirement should or should not be preempted under the standards of § 107.202; and state how the applicant is affected by the State, political subdivision, or Native American Tribe requirement.

(5) *Waivers of Preemption:* With the exception of requirements preempted under 49 U.S.C. 5125(c), any person may apply to the Chief Counsel for a waiver of preemption with respect to any requirement that: (1) The State, political subdivision thereof, or Native American Tribe acknowledges to be preempted under the Federal hazardous materials transportation law, or (2) has been determined by a court of competent jurisdiction to be so preempted. The Chief Counsel may waive preemption with respect to such requirement upon a determination that such requirement affords an equal or greater level of protection to the public than is afforded by the requirements of the Federal hazardous materials transportation law or the regulations issued thereunder, and does not unreasonably burden commerce.

The information collected under these application procedures is used in the review process by PHMSA in determining the merits of the petitions for rulemakings and for reconsideration of rulemakings, as well as applications for special permits, preemption determinations, and waivers of preemption to the HMR. The procedures governing these petitions for rulemaking and for reconsideration of rulemakings are covered in subpart B of part 106. Applications for special permits, preemption, determinations, and waivers of preemption are covered under subparts B and C of part 107. Rulemaking procedures help PHMSA determine if a regulatory change is necessary, is consistent with public interest, and maintains a level of safety equal to or superior to that of current regulations. Special permit procedures provide the information required for analytical purposes to determine if the requested relief provides for a comparable level of safety as provided by the HMR. Additionally, PHMSA uses information from preemption procedures to determine whether a requirement of a State, political subdivision, or Indian tribe is preempted under 49 U.S.C. 5125, or regulations issued thereunder, or whether a waiver of preemption should be issued. The following information collections and their burdens are associated with this OMB Control Number.

Information collection	Respondents	Total annual responses	Time per response	Total annual burden hours
Petition for Rulemaking	20	20	8 hours	160
New Special Permit Application	168	168	7 hours	1,176
Party Status Special Permit Application	576	576	1.5 hours	864
Renewal Special Permit Application	936	936	1.5 hours	1,404
Modification Special Permit Application	132	132	1 hour	132
Special Permit Application—Recordkeeping	1,852	1,852	6 minutes	185
Designated Agent for Special Permit Application	100	100	2 hours	200
Confidential Handling for Special Permit Application	31	31	15 minutes	7.75
Preemption	2	2	60 hours	120
Preemption Reconsideration	1	1	30 hours	30

Affected Public: Shippers, carriers, packaging manufacturers, and other affected entities.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 3,818.

Total Annual Responses: 3,818.

Total Annual Burden Hours: 4,278.75.

Frequency of Collection: On occasion.

Title: Flammable Cryogenic Liquids.

OMB Control Number: 2137–0542.

Summary: Provisions in § 177.840(a)(2) specify certain safety procedures and documentation requirements for drivers of motor vehicles transporting flammable cryogenic liquids. This information allows the driver to take appropriate remedial actions to prevent a catastrophic release of the flammable cryogenics should the temperature of the material begin to rise excessively or if the travel time will exceed the safe travel time. These requirements are intended to ensure a high level of safety when transporting flammable cryogenics due to their extreme flammability and high compression ratio when in a liquid state. The following information collections and their burdens are associated with this OMB Control Number.

Information collection	Respondents	Total annual responses	Time per response	Total annual burden hours
Flammable Cryogenic Liquids	175	18,200	3.5 minutes	1,062
Flammable Cryogenic Liquids—Recordkeeping	175	18,200	30 seconds	152

Affected Public: Carriers of cryogenic materials.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 350.

Total Annual Responses: 36,400.

Total Annual Burden Hours: 1,214.

Frequency of Collection: On occasion.

Title: Response Plans for Shipments of Oil.

OMB Control Number: 2137–0591.

Summary: In recent years, several major oil discharges damaged the marine environment of the United States. Under authority of the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (33 U.S.C. 1251 *et seq.*), PHMSA issued regulations in 49 CFR part 130 that require preparation of written spill response plans. The following information collections and their burdens are associated with this OMB Control Number.

Information collection	Respondents	Total annual responses	Time per response	Total annual burden hours
Basic Written Response Plan—New Plans	80	80	33 hours	2,640
Basic Written Response Plan—Updating Plans	7,920	7,920	1 hour	7,920

Affected Public: Carriers that transport oil in bulk, by motor vehicle or rail.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 8,000.

Total Annual Responses: 8,000.

Total Annual Burden Hours: 10,560.

Frequency of Collection: On occasion.

Title: Requirements for United Nations (UN) Cylinders.

OMB Control Number: 2137–0621.

Summary: This information collection and recordkeeping burden is the result of efforts to amend the HMR to adopt standards for the design, construction, maintenance, and use of cylinders and multiple-element gas containers (MEGCs) based on the standards contained in the UN Recommendations on the Transport of Dangerous Goods. Aligning the HMR with the UN Recommendations promotes flexibility, permits the use of technological advances for the manufacture of the pressure receptacles, provides for a broader selection of pressure receptacles, reduces the need for special permits, and facilitates international commerce in the transportation of compressed gases. Information collection requirements address domestic and international manufacturers of cylinders that request approval by the approval agency for cylinder design types. The approval process for each cylinder design type includes review, filing, and recordkeeping of the approval application. The approval agency is required to maintain a set of the approved drawings and calculations for each design it reviews and a copy of each initial design type approval certificate approved by the Associate Administrator for the Office of Hazardous Materials Safety for not less than 20 years. The following information collections and their burdens are associated with this OMB Control Number.

Information collection	Respondents	Total annual responses	Time per response	Total annual burden hours
UN Pressure Receptacle Approval—New Request	35	35	6 hours	210
UN Pressure Receptacle Approval—Modified Request	100	100	6 hours	600
UN Pressure Receptacle Approval—Recordkeeping	75	75	6 minutes	7.5

Affected Public: Fillers, owners, users, and retesters of UN cylinders.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 210.

Total Annual Responses: 210.

Total Annual Burden Hours: 817.5.

Frequency of Collection: On occasion.

Issued in Washington, DC, on May 10, 2021, under authority delegated in 49 CFR 1.97.

William A. Quade,

Deputy Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2021–10429 Filed 5–17–21; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Bank Appeals Follow-Up Questionnaire

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a new information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning renewal of a collection of information titled, ''Bank Appeals Follow-Up Questionnaire.'' The OCC also is giving notice that it has submitted the collection to OMB for review.

DATES: Comments must be submitted on or before June 17, 2021.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0332, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0332'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

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.

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-day comment period for this notice by the following method:

[1] On February 16, 2021, the OCC published a 60-day notice for this information collection, 86 FR 9571.

• *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0332'' or ''Bank Appeals Follow-up Questionnaire.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks that OMB extend its approval of this collection.

Title: Bank Appeals Follow-Up Questionnaire.

OMB Control No.: 1557–0332.

Type of Review: Regular.

Description: The OCC's Office of the Ombudsman (Ombudsman) is committed to assessing its efforts to provide a fair and expeditious appeal process to institutions under OCC supervision. To perform this assessment, it is necessary to obtain feedback from individual appellant institutions on the effectiveness of the Ombudsman's efforts to provide a fair and expeditious appeals process and suggestions to enhance the bank appeals process. For each appeal submitted, the Ombudsman uses the information gathered to assess adherence to OCC Bulletin 2013–15, ''Bank Appeals Process,'' dated June 7, 2013, and to enhance its bank appeals program.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 5.

Estimated Annual Burden: 0.85 hours.

Frequency of Response: On occasion.

Comments: On February 16, 2021, the OCC published a 60-day notice for this information collection, 86 FR 9571. No comments were received. Comments continue to be invited on:

(a) Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2021–10424 Filed 5–17–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Increase in Maximum Tuition and Fee Amounts Payable Under the Post-9/11 GI Bill

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the increase in the Post-9/11 GI Bill maximum tuition and fee amounts payable and the increase in the amount used to determine an individual's entitlement charge for reimbursement of a licensing, certification, or national test for the 2021–2022 academic year (AY), effective August 1, 2021 through July 31, 2022.

FOR FURTHER INFORMATION CONTACT: Jamak Clifton, Management and Program Analyst, Education Service (225), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, Telephone: (202) 461–9800 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: For the 2021–2022 academic year, the Post-9/11 GI Bill allows VA to pay the actual net cost of tuition and fees not to exceed the in-state amounts for students pursuing training at public schools; $26,042.81 for students training at private and foreign schools; $26,042.81 for students training at non-degree granting schools; $14,881.59 for students training at vocational flight schools; and $12,649.34 for students training at correspondence schools. In addition, the entitlement charge for individuals receiving reimbursement of the costs associated with taking a licensing, certification, or national test is pro-rated based on the actual amount of the fee charged for the test relative to the rate of $2,172.71 for one month. The maximum reimbursable amount for licensing and certification tests is $2,000. There is no maximum reimbursable amount for national tests.

Sections 3313, 3315, and 3315A of title 38, United States Code, direct VA to increase the maximum tuition and fee payments and entitlement-charge amounts each academic year (beginning on August 1st) based on the most recent percentage increase determined under 38 U.S.C. 3015(h). The percentage increase is determined under 38 U.S.C. 3015(h). The most recent percentage increase determined under 38 U.S.C. 3015(h) is 3.5 percent, which was effective on October 1, 2020.

The maximum tuition and fee payments and entitlement charge amounts for training pursued under the Post-9/11 GI Bill beginning after July 31, 2021, and before August 1, 2022 are listed below. VA's calculations for the 2020–2021 academic year are based on the 3.5 percent increase.

2021–2022 ACADEMIC YEAR

Type of school	Actual net cost of tuition and fees not to exceed
Post-9/11 GI Bill Maximum Tuition and Fee Amounts	
PUBLIC	In-State/Resident Charges.
PRIVATE/FOREIGN	$26,042.81.

2021–2022 ACADEMIC YEAR—Continued

Type of school	Actual net cost of tuition and fees not to exceed
NON–DEGREE GRANTING	$26,042.81.
VOCATIONAL FLIGHT	$14,881.59.
CORRESPONDENCE	$12,649.34.
Post-9/11 Entitlement Charge Amount for Tests	
LICENSING AND CERTIFICATION TESTS	Entitlement will be pro-rated based on the actual amount of the fee charged for the test relative to the rate of $2,172.71 for one month. The maximum reimbursable amount for licensing and certification tests is $2,000.
NATIONAL TESTS	Entitlement will be pro-rated based on the actual amount of the fee charged for the test relative to the rate of $2,172.71 for one month. There is no maximum reimbursable amount for national tests.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 15, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2021–10415 Filed 5–17–21; 8:45 am]

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