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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0125; Project Identifier MCAI–2020–01366–T; Amendment 39–21644; AD 2021–14–17]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 23, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 23, 2021.

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0125.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0125; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0210, dated October 5, 2020 (EASA AD 2020–0210) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on February 26, 2021 (86 FR 11664). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2020–0210.

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

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0210 specifies procedures for new or more restrictive airworthiness limitations for airplane structures and safe life limits. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 15 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–14–17 Airbus SAS: Amendment 39–21644; Docket No. FAA–2021–0125; Project Identifier MCAI–2020–01366–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 23, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before May 29, 2020.

(d) Subject

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

(e) Reason

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

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0210, dated October 5, 2020 (EASA AD 2020–0210).

(h) Exceptions to EASA AD 2020–0210

(1) Where EASA AD 2020–0210 refers to its effective date, this AD requires using the effective date of this AD.

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0210 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2020–0210 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2020–0210 is at the ''applicable thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2020–0210, or within 90 days after the effective date of this AD, whichever occurs later.

(5) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0210 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2020–0210 does not apply to this AD.

(i) Provisions for Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0210.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(k) Related Information

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

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0210, dated October 5, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0210, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des

Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0125.

(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 July 2, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–15158 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31381; Amdt. No. 560]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: 0901 UTC, August 12, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg 29 Room 104, Oklahoma City, OK 73125. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 95 Airspace, Navigation (air).

Issued in Washington, DC, on July 9, 2021.

Thomas J. Nichols,

Aviation Safety Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, August 12, 2021.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 560 effective date August 12, 2021]

From	To	MEA
Color Routes		
§ 95.2 Red Federal Airway R50 Is Amended To Delete		
NANWAK, AK NDB/DME	OSCARVILLE, AK NDB	3000
OSCARVILLE, AK NDB	ANVIK, AK NDB	4100

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3207 RNAV Route T207 Is Amended To Delete			
CARRA, FL FIX	CECIL, FL VOR	*1900	15000
CECIL, FL VOR	MONIA, GA FIX	*1900	15000

From	To	MEA	MAA
Is Amended To Read in Part			
CARRA, FL FIX	MONIA, GA FIX	*1900	15000
§ 95.3219 RNAV Route T219 Is Amended by Adding			
RUFVY, AK WP	MKLUK, AK WP	*2000	17500
MKLUK, AK WP	HOOPER BAY, AK VOR/DME	*2000	17500
*1300—MOCA			
Is Amended To Delete			
NANWAK, AK NDB/DME	RUFVY, AK WP	*2300	17500
*1700—MOCA			
Is Amended To Read in Part			
DILLINGHAM, AK VOR/DME	BROUS, AK WP	*6000	17500
*5000—MOCA			
BROUS, AK WP	NACIP, AK FIX	*6000	17500
*5400—MO			
NACIP, AK FIX	ACATE, AK WP	*6000	17500
*5400—MOCA			
ACATE, AK WP	RUFVY, AK WP	*2000	17500
*1300—MOCA			
§ 95.3269 RNAV Route T269 Is Amended by Adding			
BETHEL, AK VORTAC	MKLUK, AK WP	*2800	17500
Is Amended To Read in Part			
ANNETTE ISLAND, AK VOR/DME	TURTY, AK WP	*5700	17500
TURTY, AK WP	TOKEE, AK FIX	*5700	17500
TOKEE, AK FIX	FLIPS, AK FIX	*6300	17500
FLIPS, AK FIX	BIORKA ISLAND, AK VORTAC	*6000	17500
BIORKA ISLAND, AK	VORTAC SALIS, AK FIX	*5100	17500
SALIS, AK FIX	HAPIT, AK FIX	*6200	17500
*2000—MOCA			
HAPIT, AK FIX	CENTA, AK FIX	*6200	17500
*2000—MOCA			
CENTA, AK FIX	YAKUTAT, AK VOR/DME	*2000	17500
YAKUTAT, AK VOR/DME	MALAS, AK FIX	*2400	17500
MALAS, AK FIX	KATAT, AK FIX	*9000	17500
*5300—MOCA			
KATAT, AK FIX	CASEL, AK FIX	*7000	17500
*4200—MOCA			
CASEL, AK FIX	JOHNSTONE POINT, AK VOR/DME	**5100	17500
*5000—MCA JOHNSTONE POINT, AK VOR/DME, E BND			
JOHNSTONE POINT, AK VOR/DME	FIMIB, AK WP	**3200	17500
*5400—MCA FIMIB, AK WP, W BND			
FIMIB, AK WP	ANCHORAGE, AK VOR/DME	**8800	17500
*6300—MCA ANCHORAGE, AK VOR/DME, E BND			
ANCHORAGE, AK VOR/DME	YONEK, AK FIX	**3100	17500
*6000—MCA YONEK, AK FIX, W BND			
YONEK, AK FIX	TORTE, AK FIX	**5000	17500
*8400—MCA TORTE, AK FIX, W BND			
TORTE, AK FIX	VEILL, AK FIX	**10600	17500
*8000—MCA VEILL, AK FIX, E BND			
VEILL, AK FIX	SPARREVOHN, AK VOR/DME	*7200	17500
SPARREVOHN, AK VOR/DME	ACRAN, AK FIX	*5200	17500
ACRAN, AK FIX	VIDDA, AK FIX	*6000	17500
VIDDA, AK FIX	BETHEL, AK VORTAC	*2500	17500

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6025 VOR Federal Airway V25 Is Amended To Read in Part		
GOBBS, CA FIX	STINS, CA FIX	3500
STINS, CA FIX	*POINT REYES, CA VOR/DME	3700
*8200—MCA POINT REYES, CA VOR/DME, N BND		
POINT REYES, CA VOR/DME	*FREES, CA FIX	3500

From	To	MEA
*10200—MCA FREES, CA FIX, N BND		
FREES, CA FIX	*GETER, CA FIX	**6000
*12000—MCA GETER, CA FIX, N BND		
**6000—GNSS MEA		
GETER, CA FIX	*LAPED, CA FIX	**12000
*9000—MRA		
*12000—MCA LAPED, CA FIX, S BND		
**6500—MOCA		
§ 95.6027 VOR Federal Airway V27 Is Amended To Read in Part		
STINS, CA FIX	POINT REYES, CA VOR/DME	3700
§ 95.6049 VOR Federal Airway V49 Is Amended To Delete		
VULCAN, AL VORTAC	FOLSO, AL WP	3100
FOLSO, AL WP	MASHA, AL FIX	
	N BND	*3000
	S BND	*3100
*2400—MOCA		
MASHA, AL FIX	DECATUR, AL VOR/DME	*3000
*2300—MOCA		
DECATUR, AL VOR/DME	ELKED, AL WP	2500
ELKED, AL WP	NASHVILLE, TN VORTAC	*3500
*2700—MOCA		
§ 95.6072 VOR Federal Airway V72 Is Amended To Delete		
DOGWOOD, MO VORTAC	GOBEY, MO FIX	3400
GOBEY, MO FIX	MAPLES, MO TACAN	3400
MAPLES, MO TACAN	BUNKS, MO FIX	3000
BUNKS, MO FIX	FARMINGTON, MO VORTAC	3500
§ 95.6108 VOR Federal Airway V108 Is Amended by Adding		
ROZZA, CA FIX	SCAGGS ISLAND, CA VORTAC	4700
Is Amended To Delete		
SANTA ROSA, CA VOR/DME	SCAGGS ISLAND, CA VORTAC	4500
§ 95.6139 VOR Federal Airway V139 Is Amended To Read in Part		
SEEDY, NH FIX	KENNEBUNK, ME VOR/DME	*5000
*2000—MOCA		
*2500—GNSS MEA		
§ 95.6190 VOR Federal Airway V190 Is Amended To Delete		
SPRINGFIELD, MO VORTAC	MAPLES, MO TACAN	3000
MAPLES, MO TACAN	BUNKS, MO FIX	3000
BUNKS, MO FIX	FARMINGTON, MO VORTAC	3500
§ 95.6219 VOR Federal Airway V219 Is Amended To Read in Part		
HAYES CENTER, NE VORTAC	*YOZLE, NE FIX	**7000
*7000—MRA		
**4500—MOCA		
**5000—GNSS MEA		
YOZLE, NE FIX	WOLBACH, NE VORTAC	
	NE BND	*5000
	SW BND	*7000
*4500—MOCA		
*5000—GNSS MEA		
§ 95.6238 VOR Federal Airway V238 Is Amended To Delete		
MAPLES, MO TACAN	IMPER, MO FIX	3000
IMPER, MO FIX	TROY, IL VORTAC	2600
§ 95.6400 VOR Federal Airway V242 Is Amended To Delete		
INTERNATIONAL FALLS, MN VOR/DME	U.S. CANADIAN BORDER	3000

From	To	MEA
§ 95.6289 VOR Federal Airway V289 Is Amended To Read in Part		
DOGWOOD, MO VORTAC	PEKLE, MO FIX	*3900
*3000—MOCA		
PEKLE, MO FIX	VICHY, MO VOR/DME	3000
§ 95.6301 VOR Federal Airway V301 Is Amended by Adding		
POINT REYES, CA VOR/DME	*ROZZA, CA FIX	3500
*11000—MCA ROZZA, CA FIX, N BND		
ROZZA, CA FIX	KLOGE, CA FIX	*11000
*4500—MOCA		
*5000—GNSS MEA		
Is Amended To Delete		
POINT REYES, CA VOR/DME	SANTA ROSA, CA VOR/DME	3500
SANTA ROSA, CA VOR/DME	*KLOGE, CA FIX	5000
*6400—MCA KLOGE, CA FIX, NE BND		
Is Amended To Read in Part		
KLOGE, CA FIX	RUMSY, CA FIX	*11000
*6600—MOCA		
*7000—GNSS MEA		
RUMSY, CA FIX	WILLIAMS, CA VORTAC	.....
	SW BND	11000
	NE BND	5300
§ 95.6346 VOR Federal Airway V346 Is Amended To Delete		
U.S. CANADIAN BORDER	MILLINOCKET, ME VOR/DME	*6000
*5100—MOCA		
§ 95.6400 VOR Federal Airway V400 Is Amended To Delete		
PRESQUE ISLE, ME VOR/DME	U.S. CANADIAN BORDER	*6000
*4000—MOCA		
§ 95.6487 VOR Federal Airway V487 Is Amended To Delete		
BURLINGTON, VT VOR/DME	U.S. CANADIAN BORDER	2800
§ 95.6494 VOR Federal Airway V494 Is Amended by Adding		
MENDOCINO, CA VORTAC	*ROZZA, CA FIX	6000
*7000—MCA ROZZA, CA FIX, E BND		
ROZZA, CA FIX	POPES, CA FIX	*7000
*5000—MOCA		
*5000—GNSS MEA		
Is Amended To Delete		
MENDOCINO, CA VORTAC	SANTA ROSA, CA VOR/DME	6000
SANTA ROSA, CA VOR/DME	POPES, CA FIX	5000
Is Amended To Read in Part		
POPES, CA FIX	RAGGS, CA FIX	5000
RAGGS, CA FIX	SACRAMENTO, CA VORTAC	5000
§ 95.6541 VOR Federal Airway V541 Is Amended To Delete		
GADSDEN, AL VOR/DME	HOBBI, AL FIX	3600
*2800—MOCA		
HOBBI, AL WP	DECATUR, AL VOR/DME	3000
DECATUR, AL VOR/DME	MUSCLE SHOALS, AL VORTAC	2500
Is Amended To Read in Part		
GADSDEN, AL VOR/DME	EDDIE, AL FIX	3600
§ 95.6319 Alaska VOR Federal Airway V319 Is Amended To Delete		
HOOPER BAY, AK VOR/DME	NANWAK, AK NDB/DME	2300

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Point V49 Is Amended To Delete Changeover Point			
VULCAN, AL VORTAC	DECATUR, AL VOR/DME	35	VULCAN.
V494 Is Amended To Delete Changeover Point			
MENDOCINO, CA VORTAC	SANTA ROSA, CA VOR/DME	25	MENDOCINO.
SANTA ROSA, CA VOR/DME	SACRAMENTO, CA VORTAC	25	SANTA ROSA.
§ 95.8005 Jet Route Changeover Point J89 Is Amended To Delete Changeover Point			
ATLANTA, GA VORTAC	VALDOSTA, GA VOR/DME	90	ATLANTA.

[FR Doc. 2021–15222 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31379; Amdt. No. 3965]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 19, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 19, 2021.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and

ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on July 9, 2021.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Flight Procedures and Airspace Group.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CRF part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 12 August 2021

Fairbanks, AK, PAFA, ILS OR LOC RWY 2L, ILS RWY 2L (SA CAT I), ILS RWY 2L (CAT II), ILS RWY 2L (CAT III), Amdt 10C
Fairbanks, AK, PAFA, ILS Z OR LOC Z RWY 20R, ILS Z RWY 20R (SA CAT I), ILS Z RWY 20R (SA CAT II), Amdt 25C
Fairbanks, AK, PAFA, RNAV (GPS) RWY 2R, Amdt 1B
Fairbanks, AK, PAFA, RNAV (GPS) RWY 20L, Amdt 1B
Fairbanks, AK, PAFA, RNAV (GPS) Y RWY 2L, Amdt 1C
Fairbanks, AK, PAFA, RNAV (GPS) Y RWY 20R, Amdt 1D
Fairbanks, AK, PAFA, RNAV (RNP) Z RWY 2L, Amdt 1A
Fairbanks, AK, PAFA, RNAV (RNP) Z RWY 20R, Amdt 1A
Mekoryuk, AK, PAMY, RNAV (GPS) RWY 6, Amdt 1
Mekoryuk, AK, PAMY, RNAV (GPS) RWY 24, Amdt 1
Mekoryuk, AK, Mekoryuk, Takeoff Minimums and Obstacle DP, Amdt 2
Utqiagvk, AK, PABR, ILS OR LOC RWY 8, Amdt 2
Utqiagvk, AK, PABR, LOC BC RWY 26, Amdt 2
Utqiagvk, AK, PABR, RNAV (GPS) RWY 8, Amdt 1
Utqiagvk, AK, PABR, RNAV (GPS) RWY 26, Amdt 1
Utqiagvk, AK, Wiley Post-Will Rogers Memorial, Takeoff Minimums and Obstacle DP, Orig-B
Utqiagvk, AK, PABR, VOR RWY 26, Amdt 2
Santa Rosa, CA, KSTS, ILS OR LOC RWY 32, Amdt 19C
Santa Rosa, CA, KSTS, RNAV (GPS) RWY 32, Amdt 1F
Longmont, CO, KLMO, RNAV (GPS) RWY 29, Amdt 2B
Fort Lauderdale, FL, KFLL, ILS OR LOC RWY 10L, Amdt 25
Fort Lauderdale, FL, KFLL, RNAV (GPS) Z RWY 10L, Amdt 5
Miami, FL, KMIA, ILS OR LOC RWY 26L, Amdt 17
Miami, FL, KMIA, ILS OR LOC RWY 27, Amdt 28
Miami, FL, KMIA, LOC RWY 26R, Amdt 1
Miami, FL, KMIA, RNAV (GPS) RWY 26R, Amdt 4
Miami, FL, KMIA, RNAV (GPS) Y RWY 26L, Amdt 3
Miami, FL, KMIA, RNAV (GPS) Y RWY 27, Amdt 4
Miami, FL, KMIA, RNAV (RNP) Z RWY 26L, Amdt 2
Miami, FL, KMIA, RNAV (RNP) Z RWY 27, Amdt 3
Miami, FL, Miami Intl, Takeoff Minimums and Obstacle DP, Amdt 18
St Augustine, FL, KSGJ, ILS OR LOC RWY 31, Amdt 1A
St Augustine, FL, KSGJ, RNAV (GPS) RWY 31, Amdt 2A
West Palm Beach, FL, KPBI, ILS OR LOC RWY 28R, Amdt 4
West Palm Beach, FL, KPBI, RNAV (GPS) Y RWY 14, Amdt 3
West Palm Beach, FL, KPBI, RNAV (GPS) Y RWY 28R, Amdt 3
West Palm Beach, FL, KPBI, RNAV (GPS) Y RWY 32, Amdt 3
Sheldon, IA, KSHL, RNAV (GPS) RWY 15, Amdt 1C
Chicago, IL, KMDW, RNAV (RNP) X RWY 22L, Amdt 1A
Chicago, IL, KORD, ILS OR LOC RWY 22R, Amdt 10
Chicago/Prospect Heights/Wheeling, IL, KPWK, ILS OR LOC RWY 16, Amdt 3
Chicago/Prospect Heights/Wheeling, IL, KPWK, RNAV (GPS) RWY 16, Amdt 2
Macomb, IL, KMQB, LOC RWY 27, Amdt 4
Oberlin, KS, KOIN, NDB RWY 35, Amdt 2
Oberlin, KS, KOIN, RNAV (GPS) RWY 17, Amdt 1
Oberlin, KS, KOIN, RNAV (GPS) RWY 35, Amdt 1
Oberlin, KS, Oberlin Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Hancock, MI, KCMX, RNAV (GPS) RWY 25, Amdt 1B
Houston, MO, M48, RNAV (GPS) RWY 16, Orig-B
Portsmouth, OH, KPMH, VOR/DME–A, Amdt 6, CANCELLED
Houston, TX, KIAH, GLS RWY 27, Amdt 1D
Victoria, TX, KVCT, ILS OR LOC RWY 13, Orig
Victoria, TX, KVCT, ILS OR LOC/DME RWY 13L, Amdt 12A, CANCELLED
Victoria, TX, KVCT, RNAV (GPS) RWY 13, Orig
Victoria, TX, KVCT, RNAV (GPS) RWY 13L, Amdt 1A, CANCELLED
Victoria, TX, KVCT, RNAV (GPS) RWY 31, Orig
Victoria, TX, KVCT, RNAV (GPS) RWY 31R, Amdt 1A, CANCELLED
Victoria, TX, Victoria Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1A
Victoria, TX, KVCT, VOR RWY 13, Orig
Victoria, TX, KVCT, VOR RWY 13L, Amdt 17A, CANCELLED
Victoria, TX, KVCT, VOR RWY 31, Orig
Victoria, TX, KVCT, VOR/DME RWY 31R, Amdt 7A, CANCELLED
Springfield, VT, KVSF, RNAV (GPS) RWY 5, Amdt 1

Rescinded: On July 1, 2021 (86 FR 34941), the FAA published an Amendment in Docket No. 31375 Amdt No. 3961, to Part 97 of the Federal Aviation Regulations under sections 97.33. The following entries for Middlefield, OH, effective August 12, 2021, are hereby rescinded in their entirety:

Middlefield, OH, 7G8, RNAV (GPS) RWY 11, Orig-C
Middlefield, OH, 7G8, RNAV (GPS) RWY 29, Orig-C

[FR Doc. 2021–15218 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31380; Amdt. No. 3966]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 19, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 19, 2021.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on July 9, 2021.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Flight Procedures and Airspace Group.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, CFR part 97, (is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

**** Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
12–Aug–21	NM	Farmington	Four Corners Rgnl	1/2587	6/15/21	This NOTAM, published in Docket No. 31378, Amdt No. 3964, TL 21–17 (86 FR 36642, July 13, 2021), is hereby rescinded in its entirety.
12–Aug–21	NM	Farmington	Four Corners Rgnl	1/2591	6/15/21	This NOTAM, published in Docket No. 31378, Amdt No. 3964, TL 21–17 (86 FR 36642, July 13, 2021), is hereby rescinded in its entirety.
12–Aug–21	MO	Kaiser/Lake Ozark	Lee C Fine Meml	1/6410	6/8/21	This NOTAM, published in Docket No. 31378, Amdt No. 3964, TL 21–17 (86 FR 36642, July 13, 2021), is hereby rescinded in its entirety.
12–Aug–21	MI	Howell	Livingston County Spencer J Hardy.	1/0438	6/28/21	ILS OR LOC RWY 13, Amdt 1B.
12–Aug–21	MI	Howell	Livingston County Spencer J Hardy.	1/0439	6/28/21	RNAV (GPS) RWY 13, Amdt 2B.
12–Aug–21	MI	Howell	Livingston County Spencer J Hardy.	1/0440	6/28/21	RNAV (GPS) RWY 31, Amdt 1B.
12–Aug–21	WI	Middleton	Middleton Muni—Morey Fld	1/1856	6/24/21	LOC/DME RWY 10, Amdt 1A.
12–Aug–21	WI	Middleton	Middleton Muni—Morey Fld	1/1862	6/24/21	RNAV (GPS) RWY 28, Amdt 2A.
12–Aug–21	WI	Middleton	Middleton Muni—Morey Fld	1/1865	6/24/21	VOR RWY 28, Orig-B.
12–Aug–21	AL	Huntsville	Huntsville Intl-Carl T Jones Fld	1/1927	6/29/21	ILS OR LOC RWY 18R, ILS RWY 18R (CAT II), Amdt 25.
12–Aug–21	MO	Kaiser/Lake Ozark	Lee C Fine Meml	1/2630	6/30/21	RNAV (GPS) RWY 22, Amdt 1A.
12–Aug–21	NM	Farmington	Four Corners Rgnl	1/2688	6/30/21	RNAV (GPS) RWY 7, Amdt 2.
12–Aug–21	NM	Farmington	Four Corners Rgnl	1/2689	6/30/21	RNAV (GPS) RWY 25, Amdt 1.
12–Aug–21	FL	Apalachicola	Apalachicola Rgnl-Cleve Randolph Fld.	1/4268	6/25/21	RNAV (GPS) RWY 6, Amdt 1B.
12–Aug–21	FL	Apalachicola	Apalachicola Rgnl-Cleve Randolph Fld.	1/4274	6/25/21	RNAV (GPS) RWY 14, Amdt 2B.
12–Aug–21	FL	Apalachicola	Apalachicola Rgnl-Cleve Randolph Fld.	1/4277	6/25/21	RNAV (GPS) RWY 24, Amdt 1C.
12–Aug–21	FL	Apalachicola	Apalachicola Rgnl-Cleve Randolph Fld.	1/4282	6/25/21	RNAV (GPS) RWY 32, Amdt 2C.
12–Aug–21	AZ	Phoenix	Phoenix-Mesa Gateway	1/5736	6/25/21	RNAV (GPS) RWY 30L, Amdt 1C.
12–Aug–21	AZ	Phoenix	Phoenix-Mesa Gateway	1/5738	6/25/21	RNAV (GPS) RWY 12R, Amdt 1C.
12–Aug–21	AZ	Phoenix	Phoenix-Mesa Gateway	1/5750	6/25/21	RNAV (GPS) Y RWY 30C, Amdt 1B.
12–Aug–21	WY	Hulett	Hulett Muni	1/5850	6/25/21	RNAV (GPS) RWY 13, Orig-A.
12–Aug–21	OH	Wooster	Wayne County	1/6030	6/25/21	VOR RWY 28, Orig-E.
12–Aug–21	OH	Wooster	Wayne County	1/6033	6/25/21	RNAV (GPS) RWY 28, Orig-B.
12–Aug–21	OH	Wooster	Wayne County	1/6035	6/25/21	RNAV (GPS) RWY 10, Orig.
12–Aug–21	SC	Orangeburg	Orangeburg Muni	1/7861	6/25/21	RNAV (GPS) RWY 5, Amdt 1B.
12–Aug–21	SC	Orangeburg	Orangeburg Muni	1/7862	6/25/21	RNAV (GPS) RWY 17, Orig-C.
12–Aug–21	SC	Orangeburg	Orangeburg Muni	1/7863	6/25/21	RNAV (GPS) RWY 23, Amdt 1A.
12–Aug–21	SC	Orangeburg	Orangeburg Muni	1/7864	6/25/21	RNAV (GPS) RWY 35, Amdt 1B.
12–Aug–21	CA	Watsonville	Watsonville Muni	1/7990	6/25/21	LOC RWY 2, Amdt 4C.
12–Aug–21	CT	Groton (New London).	Groton-New London	1/8256	6/25/21	ILS OR LOC RWY 5, Amdt 11D.
12–Aug–21	CT	Groton (New London).	Groton-New London	1/8263	6/25/21	VOR RWY 5, Amdt 8B.
12–Aug–21	CT	Groton (New London).	Groton-New London	1/8264	6/25/21	VOR RWY 23, Amdt 10C.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
12–Aug–21 ...	CT	Groton (New London).	Groton-New London	1/8265	6/25/21	RNAV (GPS) RWY 5, Orig-F.
12–Aug–21 ...	CT	Groton (New London).	Groton-New London	1/8273	6/25/21	RNAV (GPS) RWY 23, Orig-D.
12–Aug–21 ...	TX	Gruver	Gruver Muni	1/8792	6/24/21	RNAV (GPS) RWY 20, Orig-A.
12–Aug–21 ...	FL	Fort Lauderdale	Fort Lauderdale/Hollywood Intl	1/9515	6/25/21	RNAV (RNP) Y RWY 10L, Amdt 1D.
12–Aug–21 ...	AL	Huntsville	Huntsville Intl-Carl T Jones Fld	1/9956	6/25/21	ILS OR LOC RWY 18L, Amdt 5B.
12–Aug–21 ...	AL	Huntsville	Huntsville Intl-Carl T Jones Fld	1/9958	6/25/21	ILS OR LOC RWY 36L, Amdt 11B.
12–Aug–21 ...	AL	Huntsville	Huntsville Intl-Carl T Jones Fld	1/9959	6/25/21	ILS OR LOC RWY 36R, Amdt 4.

[FR Doc. 2021–15219 Filed 7–16–21; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 210707–0145]

RIN 0694–AI53

Addition of Entities and Revision of Entry on the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by adding six entities to the Entity List. These six entities, all of which are being added under the destination of Russia, have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States and are being added consistent with Executive Order 14024, *Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,* issued on April 15, 2021. This rule also corrects one existing entry on the Entity List under the destination of Russia.

DATES: This rule is effective July 19, 2021.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, *Phone:* (202) 482–5991, *Fax:* (202) 482–3911, *Email: ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (supplement no. 4 to part 744 of the EAR) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States. The EAR (15 CFR parts 730–774) impose additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. The license review policy for each listed entity is identified in the ''License Review Policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List and the MEU List. The ERC makes all decisions to add an entry to the Entity List and MEU List by majority vote and all decisions to remove or modify an entry by unanimous vote. The Departments represented on the ERC approved these changes to the Entity List.

Entity List Decisions

A. Entity Additions Consistent With Executive Order 14024

In this final rule, six entities are added to the Entity List on the basis of activities that are described in Executive Order (E.O.) 14024 (86 FR 20249, April 19, 2021), *Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,* issued on April 15, 2021. In E.O. 14024, the President found that specified harmful foreign activities of the Russian government constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. In issuing E.O. 14024, the President declared a national emergency to deal with this threat.

E.O. 14024 elevates the U.S. government's capacity to deploy strategic and economically impactful sanctions to deter and respond to Russia's destabilizing behavior and to counter Russia's harmful foreign activities that threaten the national security and foreign policy of the United States, including: Undermining the conduct of free and fair elections and democratic institutions in the United States and its allies and partners; engaging in and facilitating malicious cyber activities against the United States and its allies and partners that threaten the free flow of information; fostering and using transnational corruption to influence foreign governments; pursuing extraterritorial activities targeting dissidents or journalists; undermining security in countries and regions important to the United States' national security; and violating well-established principles of international law, including respect for the territorial integrity of states. To address these threats, E.O. 14024 authorizes sanctions on a wide range of persons, including, among others, those operating in the technology and defense and related materiel sectors of the Russian economy and in any additional sectors of the Russian economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State.

The Department of the Treasury's Office of Foreign Assets Control (OFAC) has designated the following six entities as being within the scope of E.O. 14024: Aktsionernoe Obshchestvo AST; Aktsionernoe Obshchestvo Pasit; Aktsionernoe Obshchestvo Pozitiv Teknolodzhiz; Federal State Autonomous Institution Military Innovative Technopolis Era; Federal

State Autonomous Scientific Establishment Scientific Research Institute Specialized Security Computing Devices and Automation; and Obshchestvo S Ogranichennoi Otvetstvennostyu NEOBIT. OFAC's first use of E.O. 14024 targeted companies operating in the technology sector of the Russian economy that support Russian intelligence services.

In conjunction with OFAC's designation, BIS is taking concurrent action to ensure the efficacy of existing sanctions on Russia that target aggressive and harmful activities by the Russian government. BIS is adding the six entities designated by OFAC—Aktsionernoe Obshchestvo AST; Aktsionernoe Obshchestvo Pasit; Aktsionernoe Obshchestvo Pozitiv Teknolodzhiz; Federal State Autonomous Institution Military Innovative Technopolis Era; Federal State Autonomous Scientific Establishment Scientific Research Institute Specialized Security Computing Devices and Automation; and Obshchestvo S Ogranichennoi Otvetstvennostyu NEOBIT—to the Entity List, and is imposing a license requirement for exports, reexports, or transfers (in-country) of all items subject to the EAR to these blocked persons. This concurrent action by BIS will complement the actions already taken by OFAC by ensuring that U.S. sanctions on these entities will apply to all items subject to the EAR regardless of whether a U.S. person is involved in the transaction or whether the transaction involves the U.S. financial system. BIS imposes a license review policy of a presumption of denial for these six entities. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule. This license requirement implements an appropriate measure within the authority of the EAR to carry out the provisions of E.O. 14024.

Russia

- Aktsionernoe Obshchestvo AST;
- Aktsionernoe Obshchestvo Pasit;
- Aktsionernoe Obshchestvo Pozitiv Teknolodzhiz;
- Federal State Autonomous Institution Military Innovative Technopolis Era;
- Federal State Autonomous Scientific Establishment Scientific Research Institute Specialized Security Computing Devices and Automation; *and*
- Obshchestvo S Ogranichennoi Otvetstvennostyu NEOBIT.

B. Correction to the Entity List

This final rule implements a correction to one existing entry on the Entity List under Russia. The correction is for the entity, Federal Security Service (FSB). This entity was added to the EAR on January 4, 2017 (82 FR 724, January 4, 2017). The License Requirement for this entity applies to all items subject to the EAR, apart from items that are related to transactions that are authorized by OFAC pursuant to their February 2, 2017, General License No. 1 (''Authorizing Certain Transactions with the Federal Security Service''). Effective March 2, 2021, General License No. 1A, dated March 15, 2018, was replaced and superseded in its entirety by General License No. 1B (''Authorizing Certain Transactions with the Federal Security Service''). This final rule corrects the existing entry's License Requirement column by inserting General License 1B for reference to OFAC's General License No. 1, and amends the effective date from February 2, 2017, to the current effective date of March 2, 2021.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on July 19, 2021, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications, and carries a burden estimate of 29.6 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

3. This rule does not contain policies with federalism implications as that term is defined in E.O. 13132.

4. Pursuant to section 1762 of ECRA (*see* 50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 18, 2020, 85 FR 59641 (September 22, 2020); Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

■ 2. Supplement No. 4 to part 744 is amended in the table under RUSSIA:

■ a. By adding in alphabetical order entries for ''Aktsionernoe Obshchestvo AST'', ''Aktsionernoe Obshchestvo Pasit'', and ''Aktsionernoe Obshchestvo Pozitiv Teknolodzhiz'';

■ b. By revising the entry for ''Federal Security Service (FSB)''; and

■ c. By adding in alphabetical order entries for ''Federal State Autonomous Institution Military Innovative Technopolis Era'', ''Federal State Autonomous Scientific Establishment Scientific Research Institute Specialized Security Computing Devices and Automation'', and ''Obshchestvo S Ogranichennoi Otvetstvennostyu NEOBIT''.

The additions and revision read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	**Federal Register** citation
*	* *	*	* *	*
RUSSIA	* *	*	* *	*
	Aktsionernoe Obshchestvo AST, a.k.a., the following one alias: —Advanced Systems Technology, AO. d. 3k2 str. 4 etazh 5 kom. 55, shosse Kashirskoe, Moscow 115230, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	86 FR [INSERT FR PAGE NUMBER] July 19, 2021.
	Aktsionernoe Obshchestvo Pasit, a.k.a., the following one alias: —Pasit, AO. Avenue Leninsky, Building 30, Premise IA, Moscow, 11934, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	86 FR [INSERT FR PAGE NUMBER] July 19, 2021
	Aktsionernoe Obshchestvo Pozitiv Teknolodzhiz, a.k.a., the following two aliases: —JSC Positive Technologies; *and* —Pozitiv Teknolodzhiz, AO. d. 23A pom. V kom, 30, shosse Shchelkovskoe, Moscow, 107241, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER] July 19, 2021.
	* *	*	* *	*
	Federal Security Service (FSB), a.k.a., the following one alias: —Federalnaya Sluzhba Bezopasnosti. Ulitsa Kuznetskiy Most, Dom 22, Moscow 107031, Russia; *and* Lubyanskaya Ploschad, Dom 2, Moscow 107031, Russia.	For all items subject to the EAR (see § 744.11 of the EAR), apart from items that are related to transactions that are authorized by the Department of the Treasury's Office of Foreign Assets Control pursuant to General License No. 1B of March 2, 2021.	Presumption of denial	82 FR 724, 1/4/17. 82 FR 18219, 4/18/17. 86 FR [INSERT FR PAGE NUMBER] July 19, 2021.
	Federal State Autonomous Institution Military Innovative Technopolis Era, a.k.a., the following two aliases: —ERA Military Innovation Technopolis; *and* —FGAU VIT ERA. Pionerskiy Prospekt, 41 Anapa Krasnodar Krai 353456, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	86 FR [INSERT FR PAGE NUMBER] July 19, 2021.
	Federal State Autonomous Scientific Establishment Scientific Research Institute Specialized Security Computing Devices and Automation, a.k.a., the following one alias: —FGANU NII Specvuzavtomatika. Rostov-On-Don, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	86 FR [INSERT FR PAGE NUMBER] July 19, 2021.
	* *	*	* *	*
	Obshchestvo S Ogranichennoi Otvetstvennostyu NEOBIT, a.k.a., the following one alias: —NEOBIT, OOO.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	86 FR [INSERT FR PAGE NUMBER] July 19, 2021.

Country	Entity	License requirement	License review policy	**Federal Register** citation
	d. 21 litera G, ul. Gzhatskaya, St. Petersburg, 195220, Russia.			
	* * *	*	*	*
*	* *	*	*	*

* * * * *

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2021–15362 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 589

Publication of Ukraine-Related Web General License 14 and Subsequent Iterations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of web general licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing six Ukraine-related web general licenses (GLs) in the **Federal Register:** GL 14, GL 14A, GL 14B, GL 14C, GL 14D, and GL 14E, each of which is now expired and was previously issued on OFAC's website.

DATES: GL 14E expired on January 28, 2019. See **SUPPLEMENTARY INFORMATION** of this rule for additional relevant dates.

ADDRESSES: *Electronic availability:* This document and additional information concerning OFAC are available on OFAC's website *www.treasury.gov/ofac.*

FOR FURTHER INFORMATION CONTACT:

OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 2014, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued Executive Order (E.O.) 13660, ''Blocking Property of Certain Persons Contributing to the Situation in Ukraine'' (79 FR 13493, March 10, 2014). In E.O. 13660, the President determined that the actions and policies of persons including persons who have asserted governmental authority in the Crimean region without the authorization of the Government of Ukraine that undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and declared a national emergency to deal with that threat.

The President subsequently issued E.O. 13661 of March 16, 2014, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine'' (79 FR 15535, March 19, 2014), and E.O. 13662 of March 20, 2014, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine'' (79 FR 16169, March 24, 2014), pursuant to the national emergency declared in E.O. 13660. E.O. 13661 and E.O. 13662 expanded the scope of the national emergency declared in E.O. 13660. On May 8, 2014, OFAC published the Ukraine Related Sanctions Regulations, 31 CFR part 589 (the ''Regulations''), to implement E.O. 13660, E.O. 13661, and E.O. 13662 (79 FR 26365, May 8, 2014). The President has issued additional Executive orders pursuant to the national emergency declared in E.O. 13660, and expanded in E.O. 13661 and E.O. 13662, which are not discussed in this publication as they are not relevant to the web GLs being published.

OFAC, in consultation with the Department of State, issued GL 14 on April 23, 2018, pursuant to the Regulations, to authorize certain transactions and activities ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements involving United Company RUSAL PLC, or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest, and that were in effect prior to April 6, 2018, through 12:01 a.m. eastern daylight time, October 23, 2018.

Subsequently, OFAC issued five further iterations of GL 14, each of which extended the period the authorizations in GL 14 remained in effect: On September 21, 2018, OFAC issued GL 14A, which replaced and superseded GL 14, and extended the authorizations through 12:01 a.m. eastern standard time, November 12, 2018; on October 12, 2018, OFAC issued GL 14B, which replaced and superseded GL 14A, and extended the authorizations through 12:01 a.m. eastern standard time, December 12, 2018; on November 9, 2018, OFAC issued GL 14C, which replaced and superseded GL 14B, and extended the authorizations through 12:01 a.m. eastern standard time, January 7, 2019; on December 7, 2018, OFAC issued GL 14D, which replaced and superseded GL 14C, and extended the authorizations through 12:01 a.m. eastern standard time, January 21, 2019; and on January 16, 2019, OFAC issued GL 14E, which replaced and superseded GL 14D, and extended the authorizations through 12:01 a.m. eastern standard time, January 28, 2019. Following the delisting of United Company RUSAL PLC on January 27, 2019, OFAC authorization was no longer required to transact with the company or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest. The texts of GLs 14, 14A, 14B, 14C, 14D, and 14E are provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine-Related Sanctions Regulations 31 CFR Part 589

General License No. 14

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts With United Company RUSAL PLC

(a) Except as provided in paragraphs (b) and (c) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other

agreements, including the importation of goods, services, or technology into the United States, involving United Company RUSAL PLC or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern daylight time, October 23, 2018.

(b) All funds in accounts of blocked persons identified in paragraph (a) that were blocked as of 12:01 a.m. eastern daylight time, April 23, 2018 remain blocked, except that such funds may be used for maintenance or wind-down activities authorized by this general license.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons described above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons described in paragraph (a) of this general license; or

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraphs (a) or (b).

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

John E. Smith

Director

Office of Foreign Assests Control

Dated: April 23, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 14A

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts With United Company RUSAL PLC

(a) Except as provided in paragraphs (b) and (c) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving United Company RUSAL PLC or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern standard time, November 12, 2018.

(b) All funds in accounts of blocked persons identified in paragraph (a) that were blocked as of 12:01 a.m. eastern daylight time, April 23, 2018 remain blocked, except that such funds may be used for maintenance or wind-down activities authorized by this general license.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons described above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons described in paragraph (a) of this general license; or

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraphs (a) or (b).

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(e) Effective September 21, 2018, General License No. 14, dated April 23, 2018, is replaced and superseded in its entirety by this General License No. 14A.

Andrea Gacki

Director

Office of Foreign Assets Control

Dated: September 21, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 14B

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts With United Company RUSAL PLC

(a) Except as provided in paragraphs (b) and (c) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving United Company RUSAL PLC or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern standard time, December 12, 2018.

(b) All funds in accounts of blocked persons identified in paragraph (a) that were blocked as of 12:01 a.m. eastern daylight time, April 23, 2018 remain blocked, except that such funds may be used for maintenance or wind-down activities authorized by this general license.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons described above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons described in paragraph (a) of this general license; or

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraphs (a) or (b).

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(e) Effective October 12, 2018, General License No. 14A, dated September 21, 2018, is replaced and superseded in its entirety by this General License No. 14B.

Andrea Gacki
Director
Office of Foreign Assets Control
Dated: October 12, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 14C

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts With United Company RUSAL PLC

(a) Except as provided in paragraphs (b) and (c) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving United Company RUSAL PLC or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern standard time, January 7, 2019.

(b) All funds in accounts of blocked persons identified in paragraph (a) that were blocked as of 12:01 a.m. eastern daylight time, April 23, 2018 remain blocked, except that such funds may be used for maintenance or wind-down activities authorized by this general license.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons described above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons described in paragraph (a) of this general license; or

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraphs (a) or (b).

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(e) Effective November 9, 2018, General License No. 14B, dated October 12, 2018, is replaced and superseded in its entirety by this General License No. 14C.

Andrea Gacki
Director
Office of Foreign Assets Control
Dated: November 9, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 14D

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts With United Company RUSAL PLC

(a) Except as provided in paragraphs (b) and (c) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving United Company RUSAL PLC or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern standard time, January 21, 2019.

(b) All funds in accounts of blocked persons identified in paragraph (a) that were blocked as of 12:01 a.m. eastern daylight time, April 23, 2018 remain blocked, except that such funds may be used for maintenance or wind-down activities authorized by this general license.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons described above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons described in paragraph (a) of this general license; or

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraphs (a) or (b).

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(e) Effective December 7, 2018, General License No. 14C, dated November 9, 2018, is replaced and superseded in its entirety by this General License No. 14D.

Andrea Gacki
Director
Office of Foreign Assets Control
Dated: December 7, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 14E

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts With United Company RUSAL PLC

(a) Except as provided in paragraphs (b) and (c) of this general license, all transactions and activities otherwise

prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving United Company RUSAL PLC or any other entity in which United Company RUSAL PLC owns, directly or indirectly, a 50 percent or greater interest and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern standard time, January 28, 2019.

(b) All funds in accounts of blocked persons identified in paragraph (a) that were blocked as of 12:01 a.m. eastern daylight time, April 23, 2018 remain blocked, except that such funds may be used for maintenance or wind-down activities authorized by this general license.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons described above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons described in paragraph (a) of this general license; or

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraphs (a) or (b).

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(e) Effective January 16, 2019, General License No. 14D, dated December 7, 2018, is replaced and superseded in its entirety by this General License No. 14E.

Andrea Gacki
Director
Office of Foreign Assets Control
Dated: January 16, 2019

Dated: July 14, 2021.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2021–15280 Filed 7–16–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 589

Publication of Ukraine-Related Web General License 12 and Subsequent Iterations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of web general licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing four Ukraine-related web general licenses (GLs) in the **Federal Register:** GL 12, GL 12A, GL 12B, and GL 12C, each of which is now expired and was previously issued on OFAC's website.

DATES: GL 12C expired on June 5, 2018. See **SUPPLEMENTARY INFORMATION** of this rule for additional relevant dates.

ADDRESSES: *Electronic availability:* This document and additional information concerning OFAC are available on OFAC's website *www.treasury.gov/ofac.*

FOR FURTHER INFORMATION CONTACT: *OFAC:* Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 2014, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued Executive Order (E.O.) 13660, ''Blocking Property of Certain Persons Contributing to the Situation in Ukraine'' (79 FR 13493, March 10, 2014). In E.O. 13660, the President determined that the actions and policies of persons including persons who have asserted governmental authority in the Crimean region without the authorization of the Government of Ukraine that undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and declared a national emergency to deal with that threat.

The President subsequently issued E.O. 13661 of March 16, 2014, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine'' (79 FR 15535, March 19, 2014), and E.O. 13662 of March 20, 2014, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine'' (79 FR 16169, March 24, 2014), pursuant to the national emergency declared in E.O. 13660. E.O. 13661 and E.O. 13662 expanded the scope of the national emergency declared in E.O. 13660. On May 8, 2014, OFAC published the Ukraine Related Sanctions Regulations, 31 CFR part 589 (the ''Regulations''), to implement E.O. 13660, E.O. 13661, and E.O. 13662 (79 FR 26365, May 8, 2014). The President has issued additional Executive orders pursuant to the national emergency declared in E.O. 13660, and expanded in E.O. 13661 and E.O. 13662, which are not discussed in this publication as they are not relevant to the web GLs being published.

OFAC, in consultation with the Department of State, issued GL 12 on April 6, 2018, pursuant to the Regulations, to authorize certain transactions and activities ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements involving certain specified blocked persons and that were in effect prior to April 6, 2018, through 12:01 a.m. eastern daylight time, June 5, 2018. Subsequently, OFAC issued three further iterations of GL 12, each of which made slight adjustments to the scope of the authorizations in the GL: On April 23, 2018, OFAC issued GL 12A, which replaced and superseded GL 12; on May 1, 2018, OFAC issued GL 12B, which replaced and superseded GL 12A; and on May 22, 2018, OFAC issued GL 12C, which replaced and superseded GL 12B. The texts of GLs 12, 12A, 12B, and 12C are provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 12

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts

(a) Except as provided in paragraph (c) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and

necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving one or more of the following blocked persons and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern daylight time, June 5, 2018:

- AgroHolding Kuban
- Basic Element Limited
- B-Finance Ltd.
- EN+ Group PLC
- JSC EuroSibEnergo
- GAZ Group
- Gazprom Burenie, OOO
- Ladoga Menedzhment, OOO
- NPV Engineering Open Joint Stock Company
- Renova Group
- Russian Machines
- United Company RUSAL PLC
- Any other entity in which one or more of the above persons own, directly or indirectly, a 50 percent or greater interest

(b) Any payment to or for the direct or indirect benefit of a blocked person that is ordinarily incident and necessary to give effect to a transaction authorized in paragraph (a) of this general license must be made into a blocked, interest-bearing account located in the United States in accordance with 31 CFR 589.203.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons listed above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons listed in paragraph (a) of this general license;

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraph (a); or

(4) The exportation of goods from the United States.

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

Andrea Gacki
Acting Director
Office of Foreign Assets Control
Dated: April 6, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 12A

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts

(a) Except as provided in paragraph (c) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving one or more of the following blocked persons and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern daylight time, June 5, 2018:

- AgroHolding Kuban
- Basic Element Limited
- B-Finance Ltd.
- EN+ Group PLC
- JSC EuroSibEnergo
- GAZ Group
- Gazprom Burenie, OOO
- Ladoga Menedzhment, OOO
- NPV Engineering Open Joint Stock Company
- Renova Group
- Russian Machines
- United Company RUSAL PLC
- Any other entity in which one or more of the above persons own, directly or indirectly, a 50 percent or greater interest

(b) Any payment to or for the direct or indirect benefit of a blocked person that is ordinarily incident and necessary to give effect to a transaction authorized in paragraph (a) of this general license must be made into a blocked, interest-bearing account located in the United States in accordance with 31 CFR 589.203, except as authorized by Ukraine Related General License 14.

(c) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons listed above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons listed in paragraph (a) of this general license;

(3) The unblocking of any property blocked pursuant to any part of 31 CFR chapter V, except as authorized by paragraph (a); or

(4) The exportation of goods from the United States.

(d) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(e) Effective April 23, 2018, General License No. 12, dated April 6, 2018, is replaced and superseded in its entirety by this General License No. 12A.

John E. Smith
Director
Office of Foreign Assets Control
Dated: April 23, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 12B

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts

(a) Except as provided in paragraph (d) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving one or more of the following blocked persons and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern daylight time, June 5, 2018:

- AgroHolding Kuban
- Basic Element Limited
- B-Finance Ltd.
- EN+ Group PLC
- JSC EuroSibEnergo
- GAZ Group
- Gazprom Burenie, OOO
- Ladoga Menedzhment, OOO

- NPV Engineering Open Joint Stock Company
- Renova Group
- Russian Machines
- United Company RUSAL PLC
- Any other entity in which one or more of the above persons own, directly or indirectly, a 50 percent or greater interest

(b) Except as authorized by Ukraine Related General License 14, any payment to or for the direct or indirect benefit of a blocked person that is ordinarily incident and necessary to give effect to a transaction authorized in paragraph (a) of this general license must be made into a blocked, interest-bearing account located in the United States in accordance with 31 CFR 589.203. Any such payment that is directly or indirectly to the account of a blocked U.S. person identified in paragraph (a) at a U.S. financial institution may be processed in accordance with the original wire transfer instructions, provided that those instructions are consistent with this general license.

(c) All funds in accounts of blocked U.S. persons identified in paragraph (a), including funds originating from authorized payments to such accounts received on or after April 6, 2018, may be used for maintenance or wind-down activities authorized by this general license.

(d) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons identified above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons identified in paragraph (a) of this general license;

(3) The unblocking of any property blocked pursuant to any other part of 31 CFR chapter V; or

(4) The exportation of goods from the United States.

(e) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(f) Effective May 1, 2018, General License No. 12A, dated April 23, 2018, is replaced and superseded in its entirety by this General License No. 12B.

John E. Smith
Director
Office of Foreign Assets Control
Dated: May 1, 2018

OFFICE OF FOREIGN ASSETS CONTROL

Ukraine Related Sanctions Regulations 31 CFR Part 589

General License No. 12C

Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts

(a) Except as provided in paragraph (d) of this general license, all transactions and activities otherwise prohibited by the Ukraine Related Sanctions Regulations, 31 CFR part 589, that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving one or more of the following blocked persons and that were in effect prior to April 6, 2018, are authorized through 12:01 a.m. eastern daylight time, June 5, 2018:

- AgroHolding Kuban
- Basic Element Limited
- B-Finance Ltd.
- EN+ Group PLC
- JSC EuroSibEnergo
- GAZ Group
- Gazprom Burenie, OOO
- Ladoga Menedzhment, OOO
- NPV Engineering Open Joint Stock Company
- Renova Group
- Russian Machines
- United Company RUSAL PLC
- Any other entity in which one or more of the above persons own, directly or indirectly, a 50 percent or greater interest

(b) Except as authorized by Ukraine Related General License 14 or Ukraine Related General License 15, any payment to or for the direct or indirect benefit of a blocked person that is ordinarily incident and necessary to give effect to a transaction authorized in paragraph (a) of this general license must be made into a blocked, interest-bearing account located in the United States in accordance with 31 CFR 589.203. Any such payment that is directly or indirectly to the account of a blocked U.S. person identified in paragraph (a) at a U.S. financial institution may be processed in accordance with the original wire transfer instructions, provided that those instructions are consistent with this general license.

(c) All funds in accounts of blocked U.S. persons identified in paragraph (a), including funds originating from authorized payments to such accounts received on or after April 6, 2018, may be used for maintenance or wind-down activities authorized by this general license.

(d) This general license does not authorize:

(1) The divestiture or transfer of debt, equity, or other holdings in, to, or for the benefit of the blocked persons identified above;

(2) Any transactions or dealings otherwise prohibited by any other part of 31 CFR chapter V, or any transactions or dealings with any blocked person other than the blocked persons identified in paragraph (a) of this general license;

(3) The unblocking of any property blocked pursuant to any other part of 31 CFR chapter V; or

(4) The exportation of goods from the United States.

(e) U.S. persons participating in transactions authorized by this general license are required, within 10 business days after the expiration date of this general license, to file a comprehensive, detailed report of each transaction, including the names and addresses of parties involved, the type and scope of activities conducted, and the dates on which the activities occurred, with the Office of Foreign Assets Control, Office of Compliance and Enforcement, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220, or via email to *OFACReport@treasury.gov.*

(f) Effective May 22, 2018, General License No. 12B, dated May 1, 2018, is replaced and superseded in its entirety by this General License No. 12C.

Andrea Gacki

Acting Director

Office of Foreign Assets Control

Dated: May 22, 2018

Dated: July 14, 2021.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2021–15279 Filed 7–16–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0416]

RIN 1625–AA00

Safety Zone; Sabine River, Orange, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule

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

DATES: This rule is effective daily on September 18, 2021 and September 19, 2021. from 7:30 a.m. through 6 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0416 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On April 29, 2021, the Coast Guard published a temporary safety zone to protect persons and vessels from the hazards associated with high speed boat races in Orange, TX (86 FR 22610). That event was cancelled due to weather. On May 19, 2021 the City of Orange, TX notified the Coast Guard that they rescheduled the races for September 18 and 19, 2021, in the same location, adjacent to the public boat ramp in Orange, TX. In response, on June 23, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone, Sabine River, Orange, TX (86 FR 32846). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this marine event. During the comment period that ended July 8, 2021, we received one comment supporting the proposed rule.

III. Legal Authority and Need for Rule

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

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment supporting the establishment of this safety zone on our NPRM published June 23, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7:30 a.m. through 6 p.m. daily on September 18, 2021 and September 19, 2021. The safety zone will cover all navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX bounded to the north by the Orange Public Wharf and latitude 30°05′50″ N and to the south at latitude 30°05′33″ N. The duration of the zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed boat races and will include breaks and opportunity for vessels to transit through the regulated area.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the proposed size, location and duration of the rule. The safety zone will encompass a less than half-mile stretch of the Sabine River for 10.5-hours on each of two days. The Coast Guard will notify the public by issuing Local Notice to Mariners (LNM), and/or Marine Safety Information Bulletin (MSIB) and Broadcast Notice to Mariners via VHF–FM radio and the rule will allow vessels to seek permission to enter the zone during scheduled breaks.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received one supporting comment on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by

employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will last 10.5 hours on each of two days and that would prohibit entry on less than a half-mile stretch of the Sabine River in Orange, TX. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREA AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0416 to read as follows:

§ 165.T08–0416 Safety Zone; Sabine River, Orange, Texas

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

(b) *Enforcement periods.* This section will be enforced from 7:30 a.m. through 6 p.m. daily on September 18, 2021 and September 19, 2021.

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

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

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

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

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

Dated: July 14, 2021.

James B. Suffern,

Commander, U.S. Coast Guard, Acting Captain of the Port Marine Safety Unit Port Arthur.

[FR Doc. 2021–15281 Filed 7–16–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0495]

RIN 1625–AA00

Safety Zone; Ohio River, Olmsted, IL

AGENCY: Coast Guard, DHS.

ACTION: Interim final rule and request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone on a portion of the Ohio River in Olmsted, IL. This action is necessary to protect

personnel, vessels, and the marine environment from potential hazards created by the demolition of Lock and Dam 53 involving explosives. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley or a designated representative.

DATES: This rule is effective without actual notice from July 19, 2021 through December 1, 2021. For the purposes of enforcement, actual notice will be used from July 14, 2021 until July 19, 2021. Comments and related material must be received by the Coast Guard on or before August 18, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0495 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule. You may submit comments identified by docket number USCG–2021–0495 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email MST1, Andrew Lagarce, MSU Paducah, U.S. Coast Guard; telephone 270–442–1621 ext. 2120, email *STL-SMB-MSUPaducah-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable.

It is impracticable to publish an NPRM because this safety zone must be established by July 14, 2021, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this interim rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, a 30 day delay of the effective date would be contrary to public interest because action is needed to respond to the potential safety hazards associated with the demolition of Lock and Dam 53 involving explosives beginning July 14, 2021.

The purpose of this rulemaking is to ensure the safety of personnel, vessels, and the marine environment in the navigable waters of the Ohio River from mile marker (MM) 961 to MM 964.6 before, during, and after the demolition of Lock and Dam 53 involving explosives. The Coast Guard is establishing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of the Rule

This rule establishes a temporary safety zone that covers all navigable waters of the Ohio River from MM 961 to MM 964.6. This rule will be enforced every day at midday from July 14, 2021 through December 1, 2021 as necessary to facilitate safe demolition of Lock and Dam 53. Broadcast Notices to Mariners (BNM) will be issued six hours prior to the start of blasting to notify the public that the safety zone is being enforced. Vessels will be able to transit the safety zone when explosives are not being detonated. This safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the detonation of explosives for the demolition. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative during demolition operations involving explosives.

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone will only be enforced daily for a short period of time and only impact a small portion of the Ohio River. Additionally, this safety zone will only be enforced in daytime hours during the demolition operations of the Lock and Dam 53. Vessels may seek permission to transit safety through the area from the COTP or a designated reperesentative.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves involves a temporary safety zone for the demolition of Lock and Dam 53 involving explosives on the Ohio River in Olmsted, IL. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0495 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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. Add § 165.T08–0495 to read as follows:

§ 165.T08–0495 Safety Zone; Ohio River, Olmsted, IL

(a) *Location.* The safety zone will cover all navigable waters of the Ohio River from mile marker (MM) 961 to MM 964.6.

(b) *Effective period.* This section is effective without actual notice from July 19, 2021 until December 1, 2021. For the purposes of enforcement, actual notice will be used from July 14, 2021 until July 19, 2021.

(c) *Enforcement period.* This section will be enforced daily at midday from July 14, 2021 through December 1, 2021, as necessary to facilitate safe demolition operations.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S.

Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

(2) Vessels requiring entry into the safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

(3) Persons and vessels permitted to enter the safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public when the safety zone is being enforced via a Broadcast Notices to Mariners.

Dated: July 13, 2021.

A.M. Beach,

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

[FR Doc. 2021–15273 Filed 7–16–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0552]

RIN 1625–AA00

Safety Zone; Cumberland River Mile Marker 62; Canton, KY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Cumberland River extending from mile marker (MM) 61.5 to MM 63.5 near Canton, KY. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the salvage of a cruise ship. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective without actual notice from July 19, 2021 through September 16, 2021. For the purposes of enforcement, actual notice will be used from July 17, 2021 until July 19, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0552 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email MST2, Dylan Caikowski, MSU Paducah, U.S. Coast Guard; telephone 270–442–1621 ext. 2120, email *STL-SMB-MSUPaducah-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. On July 7, 2021 a cruise ship grounded near MM 62 of the Cumberland River. Due to the nature of the Cumberland River and the amount of recreational and commerical vessels there is potential safety risk during salvage of the cruise ship to the vessels in the area. The safety zone must be established immediately to protect people, vessels, and the marine environment from hazards associated with the salvage of a cruise ship. It is impracticable to publish an NPRM and consider the comments before issuing this rule because we must establish this safety zone by July 17, 2021.

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

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 COTP has determined that potential hazards associated with the salvage of a grounded cruise ship will be a safety concern for anyone between MM 61.5 and MM 63.5 on the Cumberland River during active salvage operations. This rule is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the salvage of a cruise ship at MM 62 on the Cumberland River.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from July 17, 2021 through September 16, 2021, or until the hazards have been mitigated. The temporary safety zone will cover all navigable waters of the Cumberland River from MM 61.5 to MM 63.5. The COTP will terminate the enforcement of this temporary safety zone before September 16, 2021 if the hazards associated with the salvage of a cruise ship have been resolved. A Broadcast Notices to Mariners (BNM) will be issued twenty-four hours prior to the start of salvage operations to notify the public that the safety zone is being enforced. Vessels will be able to transit the safety zone when no active salvage operations are being conducted. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Requests for entry will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at 502–779–5422 or the on scene designated representative can be reached via VHF–FM channel 16. Persons and vessels permitted to enter this temporary safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the

Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone will only be enforced between MM 61.5 to MM 63.5 during active salvage operations of the cruise ship and will only impact a small portion of the Cumberland River. Additionally, this safety zone will only be enforced in daytime hours during active salvage operations.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone for the salvage of a cruise ship that grounded at MM 62 on the Cumberland River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION 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. Add § 165.T08–0552 to read as follows:

§ 165.T08 -0552 Safety Zone; Cumberland River Mile Marker 62; Canton, KY

(a) *Location.* The safety zone will cover all navigable waters of the Cumberland River from mile marker (MM) 61.5 to MM 63.5.

(b) *Effective period.* This section is effective without actual notice from July 19, 2021 through September 16, 2021. For the purposes of enforcement, actual notice will be used from July 17, 2021 through July 19, 2021.

(c) *Enforcement period.* This section will be enforced only during active salvage operations of a cruise ship, as necessary to facilitate safe salvage opertions.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

(2) Vessels requiring entry into the safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

(3) Persons and vessels permitted to enter the safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public when the safety zone is being enforced via a Broadcast Notices to Mariners.

Dated: July 13, 2021.

A.M. Beach,

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

[FR Doc. 2021–15276 Filed 7–16–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0331]

RIN 1625–AA00

Safety Zone; Fireworks Display, Great Egg Harbor Bay, Ocean City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of Great Egg Harbor Bay in Ocean City, NJ. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Delaware Bay.

DATES: This rule is effective from 9 p.m. through 9:30 p.m. on July 24, 2021.

ADDRESSES: Documents mentioned in this preamble are available in the docket for this rulemaking at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Jennifer Padilla, Sector Delaware Bay, Waterways Management Division, U.S. Coast Guard; telephone (215) 271–4814, email *Jennifer.L.Padilla@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest to do so. There is insufficient time to allow for a reasonable comment period prior to the event. The rule must be in force by July 24, 2021. We are taking immediate action to ensure the safety of spectators and the general public from hazards associated with the fireworks display. Hazards include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest. The rule needs to be in place by July 24, 2021, to mitigate the potential safety hazards associated with a fireworks display in this location.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority granted in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Delaware Bay (COTP) has determined that potential hazards associated with the fireworks to be used in this July 24, 2021, display will be a safety concern for anyone within a 300-yard radius of the barge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on the waters of Great Egg Harbor Bay in Ocean City, NJ, during a fireworks display from a barge. The event is scheduled to take place between 9 p.m. and 9:30 p.m. on July 24, 2021. The safety zone will extend 300 yards around the barge, which will be anchored at approximate position latitude 39°17′22″ N, longitude 074°34′29″ W. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the following factors: (1) Although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP Delaware Bay or a designated representative, they may operate in the surrounding area during the enforcement period; (2) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the COTP Delaware Bay; and (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions

with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in expenditures 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 expenditures, 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 does not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone that prohibits persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable water in Great Egg Harbor Bay during a fireworks display lasting approximately 30 minutes. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR 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; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0331 to read as follows:

§ 165.T05–0331 Safety Zone; Fireworks Display, Great Egg Harbor Bay, Ocean City, NJ.

(a) *Location.* The following area is a safety zone: All waters of Great Egg Harbor Bay in Ocean City, NJ within 300 yards of the fireworks barge anchored in approximate position latitude 39°17′22″ N, longitude 074°34′29″ W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel or on board a federal, state, or local law enforcement vessel assisting the Captain of the Port (COTP), Delaware Bay in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, contact the COTP or the COTP's representative via VHF–FM channel 16 or 215–271–4807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) No vessel may take on bunkers or conduct lightering operations within the safety zone during its enforcement period.

(4) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This zone will be enforced from approximately 9 p.m. to 9:30 p.m. on July 24, 2021, during the effective period for this section.

Dated: July 14, 2021.

Leon McClain, Jr.,

Captain, U.S. Coast Guard, Alternate Captain of the Port Delaware Bay.

[FR Doc. 2021–15292 Filed 7–16–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2019–0435; FRL–10017–29–OAR]

RIN 2060–AU46

New Source Review Regulations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is amending several New Source Review (NSR) regulations by making the following types of changes: Correcting typographical and grammatical errors, removing court vacated rule language, removing or updating outdated or incorrect cross references, conforming certain provisions to changes contained in the 1990 Clean Air Act (CAA or Act) Amendments, and removing certain outdated grandfathering or transitional exemptions.

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

ADDRESSES: The EPA has established a docket for this action, identified by Docket ID No. EPA–HQ–OAR–2019–0435. All documents in the docket are listed in the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in the docket or in hard copy at the EPA Docket Center Reading Room, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.* The hours of operation at the EPA Docket Center Reading Room are 8:30 a.m.–4:30 p.m., Monday–Friday. The telephone number for the EPA Docket Center is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: For general questions about this document, please contact Mr. Ben Garwood, New Source Review Group, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number (919) 541–1358; fax number (919) 541–4028; email address: *garwood.ben@epa.gov.*

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

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VII. Statutory Authority

I. Background

The EPA published a notice of proposed rulemaking (NPRM) on December 20, 2019 (''2019 NPRM'' or ''2019 proposal'') [1] including revisions to four sets of NSR regulations.[2] The proposed revisions were intended to correct various typographical and grammatical errors, remove regulatory provisions that have been vacated by the court, remove or update outdated or incorrect cross references, conform certain provisions to changes contained in the 1990 CAA Amendments, and remove outdated exemptions.

The NSR regulations have undergone revisions and restructurings by the EPA during their long history as a result of statutory and policy changes, as well as numerous court decisions. These revisions and restructurings have sometimes introduced errors within those regulations. In this action, the EPA is finalizing revisions to address these inadvertent errors. The agency is also finalizing other revisions to reflect statutory changes enacted by Congress which have already been applied in practice or changes that have been necessitated by court decisions. Thus, the EPA considers this final rule to be administrative in nature. The EPA's intent is to provide clarity to the affected NSR regulations, but not to alter the substantive requirements of those regulations. The NSR regulations affected by this action contain requirements for the preconstruction review of new major stationary sources and major modifications of existing major stationary sources.

In response to the 2019 proposal, the EPA received 15 sets of comments: Five from industries and industry associations, five from anonymous commenters, four from state agencies, and one from an individual. The commenters generally agreed with most of the editorial and typographical changes that the EPA had proposed. Some commenters, however, disagreed with some of the proposed changes and made alternative recommendations for consideration in the final rule. In addition, some commenters identified additional regulatory text needing changes. The following section addresses some of the significant comments and provides the EPA's responses. For a complete description of the comments received and the EPA's responses, please refer to the Response to Comment (RTC) document that the EPA has placed in the docket for this rulemaking.

In order to provide a clear description of the regulatory revisions contained in the 2019 proposal, the EPA also included a separate table in the rulemaking docket showing each of the

[1] 84 FR 70092 (December 20, 2019).

[2] The four sets of NSR regulations include the Prevention of Significant Deterioration regulations at 40 CFR 51.166 and 52.21, and the Nonattainment NSR regulations at 40 CFR 51.165 and part 51 Appendix S (also known as the Emission Offset Interpretative Ruling).

proposed changes in a redline/strikeout (RLSO) format to clearly illustrate where and what changes were proposed. Some commenters correctly noted that there were some inconsistencies between the changes shown in the docketed table and the revised regulatory text in the 2019 NPRM. These inconsistencies have been corrected in this final rule and the table has been revised to show all of the changes that are being made to the four sets of NSR regulations, including those that have been made since the 2019 proposal. Further, the EPA has made some very minor, non-substantive rule language format conforming revisions in this final rule as required by Office of the Federal Register (OFR) guidelines for rule language publication in the **Federal Register** according to the Document Drafting Handbook.[3] These rule language consistency edits from OFR are contained in the final rule language and the revised table. The revised table is available in the docket for this final rule (see Reference Table of New Source Review Error Corrections—Final Rule, in Docket ID. No. EPA–HQ–OAR–2019–0435).

II. Response to Comments

Based on the comments received, the EPA is not finalizing some of the proposed changes or is finalizing revised versions of the proposed changes. The following section provides a summary of many of the comments received and the EPA's response to those comments, including our rationale for not finalizing some of the proposed changes or modifying changes that were originally proposed. All of comments and responses, including those not discussed in this preamble, are included in the RTC, which the EPA has placed in the docket for this rulemaking.

Comments Received and the EPA's Responses

A. *Typographical, grammatical and punctuation errors.* The EPA proposed to correct misspelled words, such as those contained in 40 CFR 51.165(a)(1)(viii) and 51.166(j)(4). No adverse comments were received concerning these types of corrections. The EPA did, however, receive comments providing notification of similar typographical errors, including the incorrect use of the word ''and'' in lieu of ''through'' in 40 CFR 51.166(b)(48)(ii) and 52.21(b)(49)(ii), and is making these corrections along with similar proposed corrections such as the use of ''that'' in lieu of ''than'' in 40 CFR 52.21(b)(1)(iii)(*z*). The EPA is also updating the rule language to correct other errors identified by commenters, including an inadvertent reference to ''Class II'' in the proposed revision to 40 CFR 52.21(u)(3), and other minor clarifying edits (*see* 40 CFR 51.165(a)(1)(xxi)(A) through (D), 51.165(a)(1)(xl), Appendix S II.A.12, Appendix S II.A.37, 51.166(b)(2)(iii)(*a*), 51.166(b)(12), 51.166(b)(32)(i) through (iv), 51.166(b)(48)(ii), 51.166(j)(1), 51.166(w)(9)(ii), 52.21(b)(12), 52.21(b)(33)(i) through (iv), 52.21(b)(49)(iii), and 52.21(j)(1)). These corrections are a logical outgrowth of the proposal but, in any event, the EPA also finds there is good cause to make these corrections without soliciting public comment on them because it would be unnecessary given that the changes are not substantive.[4]

In numerous instances, the EPA proposed to correct inappropriate words or punctuation, including capitalizations, commas and hyphens, such as those contained in 40 CFR 51.165(a)(2)(iii), Appendix S II.A.4.(iii), and 52.21(b)(23)(ii). One adverse comment was received on an edit proposed to the definition of ''emissions increase'' to change ''is'' to ''shall be'' to make the language consistent throughout the paragraph. The EPA had only proposed this change in 40 CFR 52.21. The commenter pointed out that the use of ''is'' is already consistent within the paragraph and raised concern that the proposed change could be seen as suggesting that the provision would function as a significant emissions rate even though the EPA has not yet completed a rulemaking to set a significance level for GHGs. *See* 81 FR 68110 (October 3, 2016). Instead the commenter suggested deleting a comma to clarify the provision. The EPA agrees with the commenter and is not changing ''is'' to ''shall be'' in 40 CFR 52.21(b)(49)(iii) and 51.166(b)(48)(iii).

Other errors identified by commenters or identified by the EPA subsequent to the 2019 proposal include the inadvertent capitalization of ''for'' in 40 CFR 52.21(b)(48)(i)(*c*) and the incorrect pluralization of the term ''standard'' in 40 CFR 51.166(j)(1). Correction of these errors is a logical outgrowth of the proposal but, in any event, the EPA also finds there is good cause to make these corrections without soliciting public comment because it would be unnecessary given that the changes are not substantive.

B. *Regulatory references.* The EPA proposed to correct the way in which reference is made in one regulation to requirements contained in another regulation, such as references contained in 40 CFR 51.165(a)(1)(v)(C)(*5*)(*i*), 51.166(b)(2)(iii)(*e*)(*1*), 51.166(b)(2)(iii)(*f*), Appendix S II.A.5.(iii)(*e*)(*1*), and Appendix S II.A.5.(iii)(*f*). In some cases, the references were outdated, while others simply referenced an incorrect paragraph. The EPA did not receive adverse comment on these changes and the EPA is finalizing them in this rule. The EPA is also updating a reference made in 40 CFR 51.165(a)(3)(ii)(D) in response to a comment requesting that a reference made within this regulation to a memorandum be updated to reflect the subsequent codification of the referenced language. The EPA is similarly amending a dated reference in 40 CFR 51 Appendix S I. Introduction and correcting an erroneous cross reference in Paragraph IV.D from V to IV in response to comments received. These corrections are a logical outgrowth of the proposal but, in any event, the EPA also finds there is good cause to make these corrections without soliciting public comment given that the changes are not substantive.

C. *Court vacaturs.* Some of the proposed changes involve the removal of text that the EPA needed to remove to implement the vacatur of the provision in a court ruling. These changes include the following:

1. In 2003, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) indefinitely stayed the effective date of the NSR provision known as the Equipment Replacement Provision (ERP), which amended the NSR requirements in 2003 to add a Routine Maintenance, Repair, and Replacement Exclusion.[5] The ERP allowed sources to avoid NSR when replacing equipment under certain circumstances. The stay of the affected paragraphs was subsequently noted in the CFR under the three affected NSR regulations, 40 CFR 51.165, 51.166, 52.21.[6] Later, in a 2006 decision, the court vacated the ERP, concluding that the provision was ''contrary to the plain language of section 111(a)(4) of the Act.'' *New York* v. *EPA,* 443 F.3d 880, 883 (D.C. Cir. 2006) (''*New York II*''). The EPA is now

[3] See *https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf.*

[4] *See* 5 U.S.C. 553(b)(3)(B); 42 U.S.C. 7407(d)(1). For more information on the good cause exception to notice and comment rulemaking, *see* Section IV of this notice.

[5] 68 FR 61248 (October 27, 2003).

[6] For example, in 40 CFR 52.21, the following note was added: ''NOTE TO PARAGRAPH (b)(2)(III)(*a*): ''By court order on December 24, 2003, the second sentence of this paragraph (b)(2)(iii)(a) is stayed indefinitely. The stayed provisions will become effective immediately if the court terminates the stay. At that time, EPA will publish a document in the **Federal Register** advising the public of the termination of the stay.''

removing the vacated ERP provisions consistent with *New York II* as well as the notes contained in the affected NSR regulations describing the indefinite stay of the various affected provisions. *See* proposed 40 CFR 51.165(a)(1)(v)(C)(*1*), 51.165(h), 51.166(b)(2)(iii)(*a*), 51.166(y), 52.21(b)(2)(iii)(*a*), and 52.21(cc).

Additionally, in the proposal, the EPA noted that two components of the 2003 ERP rule, the criteria for ''basic design parameters'' (contained at 40 CFR 51.165(h)(2), 51.166(y)(2), and 52.21(cc)(2)), and ''process units'' (contained at 40 CFR 51.165(a)(1)(xliii), 51.166(b)(53), and 52.21(b)(55)), are incorporated within the definition of ''replacement unit,'' which was not part of the *New York II* decision. *See* 40 CFR 51.165(a)(1)(xxi), 51.166(b)(32), and 52.21(b)(33). The EPA proposed to move definitions and criteria for ''basic design parameters'' and ''process unit,'' into the definition of ''replacement unit'' in each of the three affected NSR regulations. *See* proposed 40 CFR 51.165(a)(1)(xxi)(E)–(F), 51.166(b)(32)(v)–(vi), and 52.21(b)(33)(v)–(vi).[7] The EPA's 2019 proposal to move this language to a different location in the regulation necessitated revising a cross reference made to the definition of ''basic design parameters'' to cite its new location. *See* proposed 40 CFR 51.165(a)(1)(xxi)(C), 51.166(b)(32)(iii), and 52.21(b)(33)(iii).[8]

Commenters had a variety of different recommendations in response to the EPA's 2019 proposal to relocate two definitions which the EPA did not consider to be subject to the court's vacatur decision. Those recommendations introduced alternative language for these provisions. Some commenters questioned the EPA's proposal to relocate certain components without also providing a more comprehensive rationale and opportunity for public comment. One commenter objected to moving the definition of ''process unit'' in an error corrections action, claiming that retaining provisions that were vacated by the court in a different location amounted to a substantive change because it ''represents neither a statutory change nor a change required by a court decision.'' The same commenter claimed that the EPA provided no rationale for why the vacated definition of ''process unit'' should be retained, and further stated that ''[i]f EPA believes a definition is necessary, it should provide an analysis of why the specific definition it has proposed is appropriate, instead of simply relying on a definition included in a rule that was vacated by a federal court.'' The commenter continued, however, that, should the EPA decide to define ''process unit'' as part of the definition of ''replacement unit,'' then ''[EPA] should clarify that this definition is limited to determining whether a unit meets the criteria for a replacement unit. This clarification would prevent confusion on the implication of this term.'' Finally, the commenter recommended, as an alternative, that the EPA ''could propose to eliminate the reference to process unit in the definition of 'replacement unit' and instead reference an 'emissions unit.' ''

Three commenters recommended that the EPA retain the definition of ''functionally equivalent component'' (*e.g.,* 40 CFR 52.21(b)(56)), which the EPA proposed to remove as part of the ERP vacatur component of this rule. One of the commenters recommended that the EPA incorporate the definition of ''functionally equivalent component'' into the definition of ''replacement unit'' ''in order to retain the clarification that the 'functionally equivalent component' definition provides.'' One of the commenters noted that ''[t]he replacement unit provision was intended to recognize that identical replacement is not required and often is not possible, which is why EPA will look to the 'function' and the 'basic design parameters.' '' This commenter concluded that ''[b]y deleting this definition, the intent of the replacement unit concept could be undermined.'' Finally, one of the commenters also recommended that the EPA retain the definition of ''functionally equivalent component,'' as well as the definitions of ''process unit'' and ''basic design parameters,'' as separate definitions rather than as part of the definition of ''replacement unit.''

A state commenter did not agree with the EPA's 2019 proposal to relocate the three examples of ''process units'' for source categories, including refineries, municipal waste incinerators, and steam electric generating facilities. Another commenter recommended that if the EPA chose to retain an example of a process unit for a steam electric generating facility, the example should not include equipment that does not contribute to the production of electricity. The commenter claimed that ''EPA provides no explanation for the inconsistency between its example for a pulverized coal-fired facility and the proposed regulatory text for a steam electric generating facility, which states that only portions of the plant that contribute directly to the production of electricity would be included in the definition of 'process unit.'''

Another state agency commenter noted that in the 2019 proposal the EPA ''inadvertently'' left out the paragraph describing ''pollution control equipment,'' which the commenter stated was supposed to have been included in the definition of ''process unit'' and therefore should have been included with the EPA's proposal to relocate the definition of ''process unit.'' The affected provision, previously contained at 40 CFR 51.165(a)(1)(xliii)(B), 51.166(b)(53)(ii), and 52.21(b)(55)(ii), reads as follows: ''Pollution control equipment is not part of the process unit, unless it serves a dual function as both process and control equipment. Administrative and warehousing facilities are not part of the process unit.''

The EPA has carefully considered the adverse comments concerning the proposal to relocate certain provisions that were part of the 2003 ERP rule vacated by the court in 2006. Due to the concerns expressed in the comments, the EPA has decided to also remove provisions pertaining to ''process unit'' and ''basic design parameters'' in this final rule. Based upon comments received, we have been persuaded that the better interpretation of the judgment in *New York II* is that the court vacated the ERP rule in its entirety, such that the EPA should remove all of this content to effectuate the judgment. While the replacement unit definition was adopted in a separate 2003 rulemaking that was not vacated by the court, that rulemaking action (which pre-dated *New York II*) does not provide a sufficient basis to conclude that content from the ERP rule that is referenced in definition of the ''replacement unit'' survived the vacatur. Since this dynamic is not addressed in *New York II* and that opinion post-dates the 2003 rule, the EPA believes *New York II* is best read as vacating all the content

[7] There is language related to ''process unit'' that is only relevant to the ERP and was therefore not proposed to be retained within the definition of ''replacement unit.''

[8] The EPA also notes that the ERP provisions and definition of ''replacement unit'' (promulgated under a separate rulemaking not affected by the court's ERP vacatur) were not added to the NSR regulations at 40 CFR part 51 Appendix S when the EPA amended the other NSR regulations in 2003. To fix this omission of the replacement unit provision, the EPA proposed to add the definition of ''replacement unit,'' including the criteria for ''basic design parameters'' and ''process unit,'' to Appendix S. *See* proposed paragraph II.A.37. In addition, a provision explaining that a replacement unit is considered to be an existing emissions unit was proposed to be added to the definition of ''emissions unit.'' *See* proposed paragraph II.A.7.(ii). Together, these proposed changes were intended to make the Appendix S provisions concerning replacement units consistent with the other NSR regulations.

adopted in the ERP rule. Therefore, at this time, the EPA is removing the entirety of the ERP rule from the NSR regulations and is not moving the definitions of ''basic design parameters'' and ''process unit'' into the ''replacement unit'' definition in this final rule. For the same reason, the EPA is removing the definition of ''functionally equivalent component'' as proposed.

As a result of this action, the NSR regulations will lack a definition of ''basic design parameters'' and ''process unit'' that can be applied in the context of identifying whether a unit is a ''replacement unit.'' However, while not controlling, the EPA and stakeholders may continue to look to the vacated definitions from the ERP rule to guide their understanding of the definition of ''replacement unit.'' The EPA will evaluate whether further rulemaking is needed to restore definitions of ''basic design parameter'' and ''process unit.'' If this need does arise, such a rulemaking would provide an opportunity for more targeted public input on the way such terms should be defined when applied in the specific context of defining a ''replacement unit'' for purposes of determining the method of calculating the change in emissions from a project.

2. In 2007, the EPA removed certain provisions pertaining to Clean Units (CU) and Pollution Control Projects (PCP), which were vacated by the D.C. Circuit in *New York* v. *EPA,* 413 F.3d 3 (D.C. Cir. 2005) (''*New York I*'').[9] The EPA explained that, although the court's opinion addressed the CU and PCP provisions in 40 CFR 52.21, but not the corresponding provisions in 40 CFR 51.165 and 51.166, ''the plain language of the Court's opinion clearly applies to the parallel constructions in those latter provisions . . . .'' 72 FR 32526, 32527 (June 13, 2007). Accordingly, the EPA's 2007 action was intended to remove the relevant provisions from all three NSR regulations, but the EPA only specified its removal from 40 CFR 51.165 and not 40 CFR 51.166 and 52.21. Therefore, in the 2019 NPRM, the EPA proposed to remove the remaining CU and PCP provisions that were vacated in accordance with *New York I. See* proposed 40 CFR 51.166(b)(3)(iii)(*c*), 52.21(b)(3)(iii)(*b*), and cross references to vacated PCP provisions 40 CFR 51.165(a)(2)(ii)(A), 51.166(a)(7)(iv)(*a*), and 52.21(a)(2)(iv)(*a*). The EPA did not receive any adverse comments addressing this aspect of the 2007 proposal and is therefore finalizing the changes to the regulatory text addressing the vacatur as proposed.

D. *Outdated and incorrect references.*

1. In 1980, the EPA made significant revisions to the PSD regulations under parts 51 and 52.[10] One revision deleted existing paragraph (k) and redesignated paragraphs (l) through (s) as (k) through (r). The EPA proposed to correct incorrect references affected by the 1980 redesignation of paragraphs (l) through (s). The EPA received no adverse comment on this proposed revision and will be finalizing this change. *See* 40 CFR 51.166(r)(2) and 52.21(r)(4).

2. In the same 1980 rulemaking, the EPA added a provision under the source obligation requirements at 40 CFR 52.21(r)(2) applicable to stationary sources that might be granted a future relaxation of a preconstruction permit that previously enabled the source or modification to be regulated as a ''minor'' rather than as a major stationary source. The provision requires the owner or operator of a source or modification obtaining a relaxation of the limits referenced to comply with the permit requirements for a major stationary source or major modification as if construction had not yet commenced on the source or modification. The provision references the permit requirements contained under paragraphs (j) through (s) of 40 CFR 51.166. However, paragraph (s) contains discretionary provisions concerning the application of innovative control technology. In light of the non-mandatory nature of those provisions, it should not have been included in the reference to required permit elements. Accordingly, the EPA proposed to correct the source obligation requirement at 40 CFR 51.166(r)(2) by removing the reference to paragraph (s) and replacing it with a reference to paragraph (r). *See* proposed 40 CFR 51.166(r)(2). The EPA received a comment supporting this proposed change, but no adverse comments, and will therefore finalize this change as proposed.

3. The Nonattainment New Source Review (NNSR) regulations at 40 CFR 51.165 and 40 CFR part 51 Appendix S contain a restriction which prohibits sources that replace one hydrocarbon compound with another of lesser reactivity from obtaining emissions credit for that replacement. *See* 40 CFR 51.165(a)(3)(ii)(D) and part 51 Appendix S IV.C.4. At the same time, the provisions make it clear that a source may obtain an emissions credit, also referred to as an offset credit (when intended to be used as an emissions offset), in cases where a VOC is replaced by an organic compound that is not considered to be a VOC (*i.e.,* recognized to have negligible photochemical reactivity). The EPA has now included as part of the regulatory definition of ''volatile organic compounds,'' codified at 40 CFR 51.100(s), organic compounds that are not VOCs that the EPA included in the definition because they have negligible photochemical reactivity. Accordingly, we proposed to revise both sets of NNSR regulations to provide an updated reference to the organic compounds that the EPA does not define as VOC.

Two commenters recommended that the EPA completely delete, rather than edit, these provisions, asserting that they are outdated offset conditions. One of the commenters, using CAA section 173(c) as their basis, noted that ''[w]hen the EPA changed from regulating hydrocarbons to regulating VOC as a single pollutant, the EPA no longer considered reactivity in the offsets provision.''

The EPA recognizes that because of the shift in how the EPA regulates photochemically reactive compounds that form ozone, this restriction on offsets may no longer be necessary. However, the EPA did not provide a rationale for the wholesale removal of this restriction. Therefore, the EPA is making the proposed change, with some small variations. The provisions will be revised to update the list of negligible photochemical reactive compounds and to more clearly reflect the fact that the organic compounds listed with negligible photochemical reactivity are, by definition, not VOCs. At worst, the continued inclusion of this restriction on offsets is merely redundant. The EPA may consider whether to remove it in a future action. *See* 40 CFR 51.100(s)(1) and paragraph IV.C.4. at part 51 Appendix S.

4. In 1986, the NSR provisions in 40 CFR 51.18 were moved in a restructuring rule that placed them under new subpart I of part 51.[11] 40 CFR 51.18 is an obsolete reference to the NSR regulations that were applicable to minor sources, major sources locating in areas that do not meet the National Ambient Air Quality Standards (NAAQS) (40 CFR 51.18(j)), and major sources locating in areas that meet the NAAQS, but significantly impact an area that is not meeting the NAAQS (40 CFR 51.18(k)). Subpart I now contains the preconstruction review requirements for state minor NSR programs (40 CFR 51.160–164) as well as state major NNSR programs (40 CFR

[9] 72 FR 32526 (June 13, 2007).

[10] 45 FR 52676 (August 7, 1980).

[11] 51 FR 40656 (November 7, 1986).

51.165) and state PSD programs (40 CFR 51.166).[12] The EPA proposed to update the reference to 40 CFR 51.18 in Appendix S V.A. by replacing it with a reference to 40 CFR 51.165, which includes NSR requirements for major stationary sources in nonattainment areas. *See* proposed section V.A. [2nd paragraph] of 40 CFR part 51, Appendix S. The EPA received two comments supporting this change as proposed and received no adverse comments regarding this proposed change. Upon review for the final rule, the EPA determined that the citation referencing 40 CFR 51.165 should be changed to 40 CFR 51.102 since the reference in Appendix S Paragraph V.A. concerns the proper public participation process for a state implementation revision if necessary to make an offset enforceable. 40 CFR 51.102 addresses the public notice for the preparation, adoption and submittal of implementation plans and is therefore a more appropriate reference than the proposed reference to 40 CFR 51.165.

5. On December 31, 2002, the EPA amended its NSR regulations to add, among other things, provisions for Plantwide Applicability Limitations (PALs).[13] In each of the NSR regulations, new provisions were added to require major stationary sources with PAL permits to monitor affected emissions units in accordance with monitoring requirements set forth elsewhere in the regulations. The PSD regulations at 40 CFR 51.166 incorrectly provided a reference to the recordkeeping requirements under paragraph (w)(13) instead of the intended monitoring requirements for PALs at paragraph (w)(12). The other NSR regulations provided the correct cross reference to the monitoring requirements. The EPA proposed to correctly reference the monitoring requirements for PALs in 40 CFR 51.166(w)(7)(vii). The EPA received no adverse comments on this proposed change and will therefore finalize the change as proposed.

6. On December 21, 2007, the EPA amended the NSR regulations by, among other things, adding new paragraphs to explain when a stationary source will have a ''reasonable possibility'' of causing a significant emissions increase.[14] In 40 CFR 51.166(r)(6)(vi)(*b*), reference is incorrectly made to ''paragraph (a)(6)(vi)(*a*)'' and ''paragraphs (a)(6)(ii) through (v).'' Both references mistakingly reference paragraph (a), which is where similar references are made in the ''reasonable possibility'' provision contained in 40 CFR 51.165(a)(6)(vi)(B). The EPA proposed to correct the references in 40 CFR 51.166 by changing the language to reference the applicable subparagraphs under paragraph (r). The EPA did not receive any adverse comments on the proposed changes and will therefore finalize the changes as proposed.

E. *Clean Air Act Amendments.* Some of the corrections result from new statutory requirements introduced in the 1990 CAA Amendments, which the EPA did not address in subsequent rulemakings involving the affected NSR regulations.

1. *Major source threshold for municipal incinerators.* The 1990 CAA Amendments amended the definition of ''major emitting facility'' at section 169(1) by striking out the words ''two hundred and'' as those words appeared in the phrase ''municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day.'' [15] This amendment had the effect of lowering the charging capacity threshold for qualifying a municipal incinerator as a ''major emitting facility'' from 250 tons of refuse per day to 50 tons per day when such incinerator emits or has the potential to emit at least 100 tons per year of any regulated NSR pollutant. In the 2019 NPRM, the EPA proposed to revise all four sets of major NSR regulations to reflect this change with regards to the statutory definition of ''major emitting facility'' for municipal incinerators. *See* proposed 40 CFR part 51 Appendix S II.A.4.(iii)(*h*), Appendix S II.F.8, 40 CFR 51.165(a)(1)(iv)(C)(*8*), 51.165(a)(4)(viii), 51.166(b)(1)(i)(*a*), 51.166(b)(1)(iii)(*h*), 51.166(i)(1)(ii)(*h*), 52.21(b)(1)(i)(*a*), 52.21(b)(1)(iii)(*h*), and 52.21(i)(1)(vii)(*h*). The EPA did not receive any adverse comments on the proposed changes and will finalize the changes as proposed.

2. *Standards under section 112 of the Act.* The NSR regulations in several places refer to emissions standards established pursuant to 40 CFR part 61. *See e.g.,* 40 CFR 51.166(b)(12). Part 61 contains national emission standards for hazardous air pollutants (NESHAP), which the EPA promulgated based on the pre-1990 CAA Amendment version of section 112. The 1990 CAA Amendments revised section 112, causing the EPA to promulgate additional NESHAP, which are included in part 63. Accordingly, to ensure that the requirements associated with the section 112 standards are adequately addressed in the NSR regulations, the EPA proposed that each regulatory reference to part 61 should also include a reference to part 63. The EPA proposed to make the necessary updates in the affected NSR regulations.

Several commenters recommended various options that differed from the 2019 EPA proposal. A state agency commenter recommended that the EPA add reference to not only part 63 but also to part 62. This, the commenter noted, would ''include all potentially applicable federal standards'' to specific provisions under the affected NSR regulations. 40 CFR part 62 sets forth the Administrator's approval and disapproval of state plans for the control of pollutants from facilities regulated under CAA 111(d) and 129 and the Administrator's promulgation of such plans or portions of plans when a state has failed to provide an approvable plan or portions thereof. Plans under part 62 contain standards of performance that apply to existing sources that would be subject to 40 CFR part 60 (standards of performance for new stationary sources) if such existing sources were new sources. Such plans are approved state plans or federal plans for each separate source category.

Two commenters claimed that the EPA has incorrectly proposed to add reference to part 63 because the CAA at section 112(b)(6), added to the Act in 1990, explicitly removes section 112 hazardous air pollutants (HAPs) from the PSD program. One of the commenters noted that the NNSR program ''inherently does not directly regulate a HAP as it is not a criteria pollutant with a national ambient air quality standard.'' Thus, the commenters argued that the EPA was incorrect in proposing to add reference to part 63 and should additionally be removing reference to part 61, which also contains standards for HAPs. One of the commenters concluded that ''including part 61 and, as proposed, part 63 in various NSR definitions will give the mistaken impression that HAPs are regulated by the NSR programs.'' The commenters acknowledged that the statutory definition of ''best available control technology'' did include a reference to standards promulgated pursuant to CAA section 112; therefore, one of the commenters recommended that ''[i]n order to reduce confusion from the insertion of parts 61 and 63 to the PSD BACT requirements and to remain consistent with the 1991 transitional guidance, EPA should clarify in the rule that BACT applies to a regulated NSR pollutant by adding the term 'for a regulated NSR pollutant'

[12] Subpart I of part 51 also contains the PSD regulations at 40 CFR 51.166, which were previously codified at 40 CFR 51.24.

[13] 67 FR 80186 (December 31, 2002).

[14] 72 FR 72607 (December 21, 2007).

[15] Par. (1). Public Law 101–549, section 305(b) (1990).

after the term 'major stationary source or major modification' in 40 CFR 51.166(j)(1) and 52.21(j)(1).''

One commenter was concerned about the EPA's 2019 proposal to add reference to part 63 to the definition of ''allowable emissions.'' The commenter indicated that the addition of a reference to part 63 therein would indicate that Congress intended that compliance with limits issued under CAA section 112, as amended in 1990, should not be considered creditable reductions for netting purposes. The commenter further stated that ''there is no indication that Congress intended Maximum Achievable Control Technology ('MACT') (or CAA section 112(f)) reductions to be excluded under a creditability rationale.'' Moreover, the commenter argued that ''[i]f EPA intends this result . . . then the agency must do it in a more substantive rulemaking, not as part of this 'error correction' rulemaking.''

In light of several commenters' adverse comments expressing concerns about adding a reference to part 63 emissions standards to the NSR regulations, the EPA has decided not to finalize the proposed changes concerning the part 63 reference, with one exception. The EPA agrees that additional assessment is needed to determine how including HAPs in the definitions of ''allowable emissions'' and ''federally enforceable'' would function in practice and whether the commenters' concerns are justified. However, in one particular case—the definition of ''BACT''—the statute expressly requires the inclusion of emissions standards under CAA section 112 in that definition (which includes emissions limitations contained in both 40 CFR parts 61 and 63). By adding the restriction that BACT cannot allow emissions in excess of 112 standards, the EPA is not suggesting that HAPs are regulated under NSR. Rather, there are certain NSR regulated pollutants that inherently include HAP pollutants. For instance, PM may contain constituents that include HAPs, such as cadmium. By including the CAA section 112 standards in the restriction in the definition of BACT, the EPA is ensuring that BACT cannot allow emissions of HAPs in excess of any applicable section 112 standard under 40 CFR parts 61 and 63. *See* revised 40 CFR 51.165(a)(1)(xl), 51.166(b)(12), part 51 Appendix S II.A.34, and 52.21(b)(12).

F. *Outdated exemptions.* The PSD regulations at 40 CFR 51.166 and 52.21 contain various exemption provisions that allow certain permit applicants—*e.g.,* portable stationary sources and nonprofit health or nonprofit educational institutions—to be exempt from all or a portion of the PSD preconstruction review requirements. In some cases, these provisions allowed permit applicants to be excluded from certain requirements—*e.g.,* new or revised $PM_{2.5}$ NAAQS or PSD increments—which became effective before a final permit could be issued, commonly known as $PM_{2.5}$ grandfathering provisions (*see* 40 CFR 51.166(i)(10) and 52.21(i)(11)). Some of the existing exemption provisions are outdated because the time in which they were relevant has long since passed. Accordingly, the EPA proposed to remove such outdated provisions, which allow for grandfathering or the implementation of alternative procedures for PSD permit applicants, under the regulations at 40 CFR 51.166 and 52.21.

The EPA received a few adverse comments concerning the proposed removal of outdated exemptions. One of these comments pertained to an exemption that the EPA did not actually propose to remove. The commenter correctly pointed out that the PSD exemption applicable to portable sources, 40 CFR 52.21(i)(1)(viii), continues to be relevant and should not be removed. The EPA acknowledges that the preamble text indicated that the EPA proposed to delete paragraphs (i)(1)(viii) through (x) of the 40 CFR 52.21 PSD regulations, which include the portable source provision at paragraph (i)(1)(viii). However, it was not the EPA's intention to delete paragraph (i)(1)(viii) and a review of the proposed regulatory text and the Error Corrections Table in the docket shows that the EPA did not actually include the deletion of this paragraph in the 2019 proposal. Instead, the proposed regulatory text shows the deletion of only paragraphs (i)(1)(ix) and (x). Accordingly, the EPA is not deleting the portable source exemption provision at 40 CFR 52.21(i)(1)(viii) in this final action. As proposed, the EPA is deleting the following outdated exemption provisions in the final rule: 40 CFR 51.166(i)(6) through (11); 52.21(i)(1)(i) through (v), 52.21(i)(6) through (12), and 52.21(m)(1)(v), and 52.21(m)(1)(vii) and (viii) and 52.21(i)(1)(ix) and (x).

The EPA received one comment asking that the EPA retain the outdated exclusion of carbon dioxide emissions from biogenic material (the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms) from the definition of ''subject to regulation.'' This temporary exclusion was vacated by a court in 2013 [16] and expired on its own terms on July 21, 2014. The commenter suggested that, because this expiration was relatively recent, ''[r]etaining this language will aid regulatory personnel, owners/operators, and consultants in the future when trying to fully understand the basis for recent NSR permitting determinations based on EPA's prior GHG requirements.'' The EPA is not persuaded that this justifies retaining the vacated and outdated provision. If anyone seeks to understand the basis of older NSR permitting decisions, they can consult the version of the Code of Federal Regulations that applied at the time of those decisions. Therefore, the EPA is finalizing removal of the vacated and outdated exclusion of carbon dioxide emissions from biogenic material from the definition of ''subject to regulation.'' *See* 40 CFR 51.166(b)(48)(ii)(a) and 52.21(b)(49)(ii)(*a*).

III. Final Action

This final action corrects minor, inadvertent, and non-substantive errors in 40 CFR parts 51 and 52 which govern NSR permitting programs, and updates the regulatory text to reflect statutory changes and certain court decisions vacating elements of the regulatory text, but does not change the requirements within these programs. Based upon comments received, as noted in this preamble and the RTC document in the docket, the EPA is moving forward with the majority of the proposed minor edits without change. Additionally, regarding state SIP submittals, the 2019 NPRM proposed that states need not be subject to any deadline to make conforming changes. The EPA received one comment in support of this position and no adverse comments. The EPA is therefore reaffirming that states can have discretion as to when to make these changes and may choose to combine them with other SIP submittals. Also, please refer to the RTC for further discussion about comments which are not included in Section II of this final rule preamble.

IV. Removal of Vacated Ozone NAAQS Grandfathering and Ozone Interprecursor Trading Provisions

This final action removes an exemption in the PSD regulations vacated by the D.C. Circuit in 2019 as well as the ozone interprecursor trading (IPT provision in the NNSR regulations vacated by the D.C. Circuit in 2021. This section explains the court's vacatur of

[16] *Center for Biological Diversity* v. *EPA,* 722 F.3d 401 (D.C. Cir. 2013).

these provisions and the basis for their removal.

On October 26, 2015, the EPA promulgated a final rule containing revised NAAQS for ozone and grandfathering provisions that enabled pending PSD permit applications to be issued on the basis of a demonstration that the proposed source would not cause or contribute to a violation of the prior ozone NAAQS in effect at the time the permit application was deemed to be complete or noticed for public comment.[17] The PSD grandfathering provisions were promulgated as a transition plan to reduce delays to pending PSD permit applications that may have otherwise been caused by the revised ozone standards. The PSD regulations implement CAA section 165(a)(3)(B) at 40 CFR 52.21(k)(1) and 51.166(k)(1) and require that PSD permit applications include a demonstration that emissions from the proposed facility will not cause or contribute to a violation of any NAAQS, which generally means any NAAQS in effect on the date of a PSD permit issuance. Absent the PSD grandfathering provision, this demonstration requirement would have applied to the 2015 ozone NAAQS in any PSD permit application pending at the time the 2015 ozone NAAQS became effective. However, on August 23, 2019, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the EPA lacked the authority to grandfather pending PSD permit applications in this manner and vacated the ozone NAAQS grandfathering provisions in a decision resolving challenges brought by industry, state, and environmental and public health petitioners to the 2015 primary and secondary ozone NAAQS and the PSD grandfathering provisions that were promulgated with these standards.[18]

On December 6, 2018, the EPA promulgated the final implementation rules for the 2015 ozone NAAQS, including provisions to address for ozone ground level ozone precursors Oxides of Nitrogen (NO_X) and VOC. The provisions at 51.165(a)(11)(i) and Part 51 Appendix S Paragraph IV.G.5. were promulgated to allow permit applications to use IPT to satisfy the NNSR offset requirement for ozone in nonattainment areas. The IPT provisions were designed to support the EPA's long-standing policy allowing NNSR permit applicants to satisfy their offset obligation for ozone precursors substituting NO_X for VOC, or vice versa, supported by a technical demonstration showing an equivalent, or greater, air quality benefit with respect to ground level ozone concentrations in the ozone nonattainment area.[19] On January 29, 2021, the D.C. Circuit concluded that Ozone IPT is not permissible under the CAA and vacated this part of the 2018 regulation.[20] Thus, in this action, EPA is removing the language allowing interprecursor trading for ozone and restoring the language in the NNSR regulations to the form it was in after the EPA's 2008 $PM_{2.5}$ implementation rule.

The EPA did not include the removal of these court-vacated provisions at 40 CFR 51.166(i)(11), 52.21(i)(12), 51.165(a)(11) and Part 51 Appendix S Paragraph IV.G.5. in the proposal to this rule. However, the EPA is adding this action to this final rule without providing an opportunity for public comment or a public hearing because the EPA finds that the Administrative Procedure Act (APA) good cause exemption applies here. In general, the APA and section 307(d) of the CAA require that general notice of proposed rulemakings shall be published in the **Federal Register**. Such notice must provide an opportunity for public participation in the rulemaking process. However, the APA and section 307(d) of the CAA provide an avenue for an agency to directly issue a final rulemaking in certain specific instances. This may occur, in particular, when an agency for good cause finds (and incorporates the finding and a brief statement of reasons in the rule issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest. *See* 5 U.S.C. 553(b)(3)(B); 42 U.S.C. 7407(d)(1). The EPA has determined that it is not necessary to provide a public hearing or an opportunity for public comment on this action because amending the regulations to remove the vacated grandfathering and ozone IPT provisions is a necessary ministerial act. Since the court vacated these provisions, the EPA no longer has the authority to allow the use of the affected provisions. Therefore, in as much as this action to remove the affected regulatory text simply implements the decision of the court, providing an opportunity for public comment or a public hearing on this issue would serve no useful purpose.

In addition, providing notice and comment would be contrary to the public interest because it would unnecessarily delay the removal of the unlawful grandfathering and ozone IPT provisions from the Code of Federal Regulations, which could result in confusion for the regulated industry and state, local, and tribal air agencies about the PSD and NNSR regulations and permitting. Promulgation of this rule serves to clarify that sources cannot continue to demonstrate their compliance with the PSD and NNSR requirements by relying on the prior ozone NAAQS, or ozone IPT, respectively, as was previously allowed. It is thus in the public interest for the EPA to remove the PSD Grandfathering and Ozone IPT provisions without delay. Consistent with the approach described in section III, the EPA is not establishing a deadline in this rule for states to remove these provisions form the SIPs. States thus have the discretion as to when they amend their SIPs to remove the Ozone PSD grandfathering and Ozone IPT provisions and may combine such changes with other SIP submittals.

For these reasons, the EPA finds good cause to issue a final rulemaking to remove the ozone NAAQS grandfathering and ozone NNSR IPT provisions pursuant to section 553 of the APA, 5 U.S.C. 553(b)(B). Therefore, the requirements of CAA section 307(d), including the requirement for public comment and hearing on proposed rulemakings, do not apply to this action.

V. Environmental Justice Considerations

This action corrects minor, inadvertent, and non-substantive errors in 40 CFR parts 51 and 52 governing NSR permitting programs and updates the regulatory text to reflect statutory changes and certain court decisions vacating elements of the regulatory text but does not change the requirements within these programs. Therefore, this final rule will not change the protection for all those residing, working, attending school, or otherwise present in the applicable areas, regardless of minority and economic status. Further, this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations.

VI. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was, therefore, not

[17] 80 FR 65292 (October 26, 2015).

[18] *Murray Energy Corp.* v. *EPA,* 936 F.3d 597 (D.C. Cir. 2019).

[19] 83 FR 62998 (December 6, 2018).

[20] *Sierra Club* v. *EPA,* No. 15–1465 (D.C. Cir. 2021).

submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action is clerical in nature and addresses non-controversial edits to errors in the NSR regulatory text. Therefore, this final rulemaking does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0003.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action corrects minor, inadvertent and non-substantive errors in existing rules. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

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

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. This action only makes technical amendments to correct minor, inadvertent, and non-substantive errors in existing rules. None of these technical amendments has a substantial direct effect on any tribal land; thus, Executive Order 13175 does not apply to this action.

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

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

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in Section IV of this preamble titled ''Environmental Justice Considerations.'' This action makes technical amendments to correct minor, inadvertent, and non-substantive errors to existing rules.

K. Congressional Review Act (CRA)

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

L. Judicial Review

Under CAA section 307(b)(1), petitions for judicial review of any nationally applicable regulation, or any action the Administrator ''finds and publishes'' as based on a determination of nationwide scope or effect must be filed in the United States Court of Appeals for the District of Columbia Circuit within 60 days of the date the promulgation, approval, or action appears in the **Federal Register**.[21] These technical amendments are nationally applicable, as it corrects minor, inadvertent, and non-substantive errors to existing rules. As a result, petitions for review of this final action must be filed in the United States Court of Appeals for the District of Columbia Circuit by September 17, 2021. Filing a petition for reconsideration by the Administrator of this final action 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 must be filed and shall not postpone the effectiveness of this action.[22]

VII. Statutory Authority

The statutory authority for this action is provided by 42 U.S.C. 7401, *et seq.*

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, National Ambient Air Quality Standards, New Source Review, Nitrogen dioxide, Ozone, Particulate matter, Preconstruction permitting, Sulfur oxides, Transportation, Volatile organic compounds.

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, BACT, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, National Ambient Air Quality Standards, New Source Review, Nitrogen dioxide, Ozone, Particulate matter, Preconstruction permitting, Sulfur oxides, Volatile organic compounds.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

[21] 42 U.S.C. 7607(b)(1).

[22] 42 U.S.C. 7607(d)(7)(B).

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

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

Subpart I—Review of New Sources and Modifications

■ 2. Amend § 51.165 by:
■ a. Revising paragraph (a)(1)(iv)(C)(*8*);
■ b. Revising paragraph (a)(1)(v)(C)(*1*);
■ c. Revising paragraph (a)(1)(v)(C)(*5*)(*i*);
■ d. Revising paragraph (a)(1)(v)(C)(*6*);
■ e. Revising paragraph (a)(1)(viii);
■ f. Revising paragraph (a)(1)(xxi)(A) through (D);
■ g. Revising paragraph (a)(1)(xl);
■ h. Removing paragraphs (a)(1)(xliii) through (xlvi);
■ i. Revising paragraph (a)(2)(ii)(A);
■ j. Adding paragraph (a)(2)(iii);
■ k. Revising paragraph (a)(3)(ii)(D);
■ l. Revising paragraph (a)(4)(viii);
■ m. Revising paragraph (a)(11); and
■ n. Removing and reserving paragraph (h);

The revisions read as follows:

§ 51.165 Permit requirements.

(a) * * *

(1) * * *

(iv) * * *

(C) * * *

(*8*) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

(v) * * *

(C) * * *

(*1*) Routine maintenance, repair and replacement;

* * * * *

(*5*) * * *

(*i*) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I.

* * * * *

(*6*) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR part 51, subpart I.

* * * * *

(viii) *Secondary emissions* means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

* * * * *

(xxi) * * *

(A) The emissions unit is a reconstructed unit within the meaning of § 60.15(b)(1) of this chapter, or the emissions unit completely takes the place of an existing emissions unit;

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit;

(C) The replacement does not alter the basic design parameters of the process unit; and

(D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

* * * * *

(xl) *Best available control technology (BACT)* means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the reviewing authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60, 61, or 63. If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

* * * * *

(2) * * *

(ii) * * *

(A) Except as otherwise provided in paragraph (a)(2)(iii) of this section, and consistent with the definition of major modification contained in paragraph (a)(1)(v)(A) of this section, a project is a major modification for a regulated NSR pollutant (as defined in paragraph (a)(1)(xxxvii) of this section) if it causes two types of emissions increases—a significant emissions increase (as defined in paragraph (a)(1)(xxvii) of this section) and a significant net emissions increase (as defined in paragraphs (a)(1)(vi) and (x) of this section). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

* * * * *

(iii) The plan shall require that for any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under paragraph (f) of this section.

(3) * * *

(ii) * * *

(D) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except that emissions credit may be allowed for the replacement with those compounds listed as having negligible photochemical reactivity in § 51.100(s).

* * * * *

(4) * * *

(viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

(11) The plan shall require that, in meeting the emissions offset requirements of paragraph (a)(3) of this section, the emissions offsets obtained shall be for the same regulated NSR

pollutant, unless interprecursor offsetting is permitted for a particular pollutant as specified in this paragraph. The plan may allow the offset requirements in paragraph (a)(3) of this section for direct $PM_{2.5}$ emissions or emissions of precursors of $PM_{2.5}$ to be satisfied by offsetting reductions in direct $PM_{2.5}$ emissions or emissions of any $PM_{2.5}$ precursor identified under paragraph (a)(1)(xxxvii)(C) of this section if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment area.

* * * * *

■ 3. Amend § 51.166 by:
■ a. Revising paragraph (a)(7) introductory text;
■ b. Revising paragraph (a)(7)(iv)(*a*);
■ c. Revising paragraph (a)(7)(v);
■ d. Revising paragraphs (b)(1)(i)(*a*) and (*c*);
■ e. Revising paragraph (b)(1)(iii)(*h*);
■ f. Revising paragraph (b)(1)(iii)(*z*);
■ g. Revising paragraph (b)(2)(iii)(*a*);
■ h. Revising paragraph (b)(2)(iii)(*e*)(*1*);
■ i. Revising paragraph (b)(2)(iii)(*f*);
■ j. Removing and reserving paragraph (b)(3)(iii)(*c*);
■ k. Revising paragraph (b)(12);
■ l. Revising paragraph (b)(23)(ii);
■ m. Revising paragraphs (b)(32)(i) through (iv);
■ n. Revising paragraph (b)(48)(i);
■ o. Revising paragraphs (b)(48)(ii) introductory text and (b)(48)(ii)(*a*);
■ p. Revising paragraph (b)(48)(iii);
■ q. Revising paragraph (b)(48)(iv)(*b*);
■ r. Removing paragraphs (b)(53) through (56);
■ s. Revising paragraph (g)(4);
■ t. Revising paragraph (i)(1)(ii)(*h*);
■ u. Removing and reserving paragraphs (i)(6) through (11);
■ v. Revising paragraphs (j)(1) and (2);
■ w. Revising paragraph (j)(4);
■ x. Revising paragraph (k)(1) introductory text;
■ y. Revising paragraph (m)(1)(iii);
■ z. Revising paragraphs (p)(3) and (4);
■ aa. Revising paragraphs (p)(5)(i) and (iii);
■ bb. Revising paragraph (p)(6)(iii);
■ cc. Revising paragraph (p)(7) introductory text;
■ dd. Revising paragraph (r)(2);
■ ee. Revising paragraph (r)(6)(vi)(*b*);
■ ff. Revising paragraph (w)(7)(vii);
■ gg. Revising paragraph (w)(9)(ii); and
■ hh. Removing paragraph (y).

The revisions read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

(a) * * *

(7) *Applicability.* Each plan shall contain procedures that incorporate the requirements in paragraphs (a)(7)(i) through (v) of this section.

* * * * *

(iv) * * *

(*a*) Except as otherwise provided in paragraph (a)(7)(v) of this section, and consistent with the definition of major modification contained in paragraph (b)(2) of this section, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in paragraph (b)(39) of this section), and a significant net emissions increase (as defined in paragraphs (b)(3) and (23) of this section). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

* * * * *

(v) The plan shall require that for any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under paragraph (w) of this section.

(b) * * *

(1)(i) * * *

(*a*) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 50 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

* * * * *

(*c*) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section as a major stationary source, if the change would constitute a major stationary source by itself.

* * * * *

(iii) * * *

(*h*) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and

* * * * *

(2) * * *

(iii) * * *

(*a*) Routine maintenance, repair and replacement;

* * * * *

(*e*) * * *

(*1*) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I.

* * * * *

(*f*) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I.

* * * * *

(12) *Best available control technology* means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the reviewing authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60, 61, or 63. If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make

the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

* * * * *

(23) * * *

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section does not list, any emissions rate.

* * * * *

(32) * * *

(i) The emissions unit is a reconstructed unit within the meaning of § 60.15(b)(1) of this chapter, or the emissions unit completely takes the place of an existing emissions unit;

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit;

(iii) The replacement does not change the basic design parameter(s) of the process unit;-and

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

* * * * *

(48) * * *

(i) *Greenhouse gases (GHGs),* the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraph (b)(48)(iv) of this section.

(ii) For purposes of paragraphs (b)(48)(iii) and (iv) of this section, the term tpy *CO_2 equivalent emissions (CO_2e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(*a*) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter—Global Warming Potentials.

* * * * *

(iii) The term *emissions increase* as used in paragraph (b)(48)(iv) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(7)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant and ''significant'' is defined as 75,000 tpy CO_2e instead of applying the value in paragraph (b)(23)(ii) of this section.

(iv) * * *

(*b*) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO_2e or more.

* * * * *

(g) * * *

(4) The plan shall provide that lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III provided that:

* * * * *

(i) * * *

(1) * * *

(ii) * * *

(*h*) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

(j) * * *

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the State implementation plan and each applicable emission standard-and standard of performance under 40 CFR part 60, 61, or 63.

(2) A new major stationary source shall apply best available control technology for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

* * * * *

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(k) * * *

(1) *Required demonstration.* The plan shall provide that the owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

* * * * *

(m) * * *

(1) * * *

(iii) The plan shall provide that with respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

* * * * *

(p) * * *

(3) *Denial—impact on air quality related values.* The plan shall provide a mechanism whereby a Federal Land Manager of any such lands may present to the State, after the reviewing authority's preliminary determination required under procedures developed in accordance with paragraph (q) of this section, a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the State concurs with such demonstration, the reviewing authority shall not issue the permit.

(4) *Class I variances.* The plan may provide that the owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source would have no adverse impact on the air quality related values of such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal land manager concurs with such demonstration and so certifies to

the State, the reviewing authority may, provided that the applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, $PM_{2.5}$, PM_{10}, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

(5) * * *

(i) The owner or operator of a proposed source or modification which cannot be approved under procedures developed pursuant to paragraph (p)(4) of this section may demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of twenty-four hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility);

* * * * *

(iii) If such variance is granted, the reviewing authority may issue a permit to such source or modification in accordance with provisions developed pursuant to paragraph (p)(7) of this section provided that the applicable requirements of the plan are otherwise met.

(6) * * *

(iii) If such a variance is approved, the reviewing authority may issue a permit in accordance with provisions developed pursuant to the requirements of paragraph (p)(7) of this section provided that the applicable requirements of the plan are otherwise met.

(7) *Emission limitations for Presidential or gubernatorial variance.* The plan shall provide that, in the case of a permit issued under procedures developed pursuant to paragraph (p)(5) or (6) of this section, the source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

* * * * *

(r) * * *

(2) The plan shall provide that at such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of paragraphs (j) through (r) of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

* * * * *

(6) * * *

(vi) * * *

(*b*) A projected actual emissions increase that, added to the amount of emissions excluded under paragraph (b)(40)(ii)(*c*) of this section, sums to at least 50 percent of the amount that is a ''significant emissions increase,'' as defined under paragraph (b)(39) of this section (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this paragraph (r)(6)(vi)(*b*), and not also within the meaning of paragraph (r)(6)(vi)(*a*) of this section, then the provisions under paragraphs (r)(6)(ii) through (v) of this section do not apply to the project.

* * * * *

(w) * * *

(7) * * *

(vii) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph (w)(12) of this section.

* * * * *

(9) * * *

(ii) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The reviewing authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

* * * * *

■ 4. Appendix S to part 51 is amended:
■ a. In section I by revising the first two undesignated paragraphs;
■ b. In section II by:
■ i. Revising paragraph A.4.(i)(*a*);
■ ii. Revising paragraphs A.4.(iii) introductory text and A.4.(iii)(*h*);
■ iii. Revising paragraphs A.5.(iii)(*e*)(*1*) and (*2*) and (*f*);
■ iv. Revising paragraphs A.7.(ii) and A.34 and 35;
■ v. Adding paragraph A.37;
■ vi. Revising paragraph B;
■ vii. Revising paragraph F.(8); and
■ viii. Revising paragraph II.G;
■ c. In section III by:
■ i. Revising paragraphs B and C; and
■ ii. Revising paragraph D. *Condition 1;*
■ d. In section IV by:
■ i. Revising paragraphs A. *Condition 1* and *Condition 4;*
■ ii. Revising paragraph B introductory text;
■ iii. Revising paragraph B.(i).1;
■ iv. Revising paragraph C.3.(i);
■ v. Revising paragraphs C.3.(ii) introductory text and C.3.(ii)(2);
■ vi. Revising paragraphs C.4 and 5;
■ vii. Revising paragraphs D and G.1 and 5;
■ viii. Revising paragraph H;
■ ix. Revising paragraph I.2;
■ x. Revising paragraph J.6.(ii); and
■ xi. Revising paragraph K.5 and paragraph K.14 introductory text; and
■ e. In section V by revising paragraph A.

The revisions read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

I. Introduction

This appendix sets forth EPA's Interpretative Ruling on the preconstruction review requirements for stationary sources of air pollution (not including indirect sources) under 40 CFR part 51, subpart I. A major new source or major modification which would locate in any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region or which would locate in an area designated in 40 CFR part 81, subpart C, as nonattainment for a pollutant for which the source or modification would be major may be allowed to construct only if the stringent conditions set forth below are met. These conditions are designed to ensure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions (*emission offsets*) will be obtained from existing sources; and that there will be progress toward achievement of the NAAQS.

For each area designated as exceeding a NAAQS (nonattainment area) under 40 CFR part 81, subpart C, or for any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region, this Interpretative Ruling will be superseded after June 30, 1979 (a) by preconstruction review provisions of the revised SIP, if the SIP meets the requirements of part D, Title 1, of the Act; or (b) by a prohibition on construction under the applicable SIP and section 110(a)(2)(I) of the Act, if the SIP does not meet the requirements of part D. The Ruling will remain in effect to the extent not superseded

under the Act. This prohibition on major new source construction does not apply to a source whose permit to construct was applied for during a period when the SIP was in compliance with part D, or before the deadline for having a revised SIP in effect that satisfies part D.

* * * * *

II. Initial Screening Analyses and Determination of Applicable Requirements

A. * * *

4. (i) * * *

(*a*) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of a regulated NSR pollutant (as defined in paragraph II.A.31 of this Ruling), except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the Act, according to paragraphs II.A.4(i)(*a*)(1) through (8) of this Ruling.

* * * * *

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Ruling whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

* * * * *

(*h*) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

5. * * *

(iii) * * *

(*e*) * * *

(*1*) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I; or

(*2*) The source is approved to use under any permit issued under this Ruling;

* * * * *

(*f*) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I;

* * * * *

7. * * *

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph II.A.7(i) of this Ruling. A replacement unit, as defined in paragraph II.A.37 of this Ruling, is an existing emissions unit.

* * * * *

34. *Best available control technology (BACT)* means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the reviewing authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60, 61, or 63. If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

35. *Prevention of Significant Deterioration (PSD) permit* means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of § 51.166, or under the program in § 52.21 of this chapter.

* * * * *

37. *Replacement unit* means an emissions unit for which all the criteria listed in paragraphs II.A.37(i) through (iv) of this Ruling are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit within the meaning of § 60.15(b)(1) of this chapter, or the emissions unit completely takes the place of an existing emissions unit;

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit;

(iii) The replacement does not alter the basic design parameters of the process unit; and

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

B. *Review of all sources for emission limitation compliance.* The reviewing authority must examine each proposed major new source and proposed major modification [1] to determine if such a source will meet all applicable emission requirements in the SIP, any applicable new source performance standard in part 60 of this chapter, or any national emission standard for hazardous air pollutants in part 61 or 63 of this chapter. If the reviewing authority determines that the proposed major new source cannot meet the applicable emission requirements, the permit to construct must be denied.

[1] Hereafter the term *source* will be used to denote both any source and any modification.

* * * * *

F. * * *

(8) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

G. *Secondary emissions.* Secondary emissions need not be considered in determining whether the emission rates in section II.C. above would be exceeded. However, if a source is subject to this Ruling on the basis of the direct emissions from the source, the applicable conditions of this Ruling must also be met for secondary emissions. However, secondary emissions may be exempt from Conditions 1 and 2 of section IV of this Ruling. Also, since EPA's authority to perform or require indirect source review relating to mobile sources regulated under Title II of the Act (motor vehicles and aircraft) has been restricted by statute, consideration of the indirect impacts of motor vehicles and aircraft traffic is not required under this Ruling.

III. * * *

B. Sources to which this section applies must meet Conditions 1, 2, and 4 of section IV.A. of this Ruling.[2] However, such sources may be exempt from Condition 3 of section IV.A. of this Ruling.

[2] The discussion in this paragraph is a proposal, but represents EPA's interim policy until final rulemaking is completed.

C. *Review of specified sources for air quality impact.* For *stable* air pollutants (*i.e.,* SO_2, particulate matter and CO), the determination of whether a source will cause or contribute to a violation of a NAAQS generally should be made on a case-by-case basis as of the proposed new source's start-up date using the source's allowable emissions in an atmospheric simulation model (unless a source will clearly impact on a receptor which exceeds a NAAQS).

For sources of nitrogen oxides, the initial determination of whether a source would cause or contribute to a violation of the NAAQS for NO_2 should be made using an atmospheric simulation model assuming all the nitric oxide emitted is oxidized to NO_2 by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate.

For ozone, sources of volatile organic compounds, locating outside a designated ozone nonattainment area, will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be permitted under the provisions of any State plan adopted pursuant to section 110(a)(2)(D) of the Act until the area is designated nonattainment and a State implementation plan revision is approved. If no State plan pursuant to section 110(a)(2)(D) of the Act has been adopted and approved, then this Ruling shall apply.

As noted above, the determination as to whether a source would cause or contribute to a violation of a NAAQS should be made as of the new source's start-up date.

Therefore, if a designated nonattainment area is projected to be an attainment area as part of an approved SIP control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

D. * * *

Condition 1. The new source is required to meet a more stringent emission limitation[3] and/or the control of existing sources below allowable levels is required so that the source will not cause a violation of any NAAQS.

[3] If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the authority may instead prescribe a design, operational, or equipment standard. In such cases, the reviewing authority shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the required submission to EPA (see part V of this Ruling). Any permits issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained (or that the operational conditions will be properly performed) so as to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under section 304. Hereafter, the term *emission limitation* shall also include such design, operational, or equipment standards.

* * * * *

IV. * * *

A. * * *

Condition 1. The new source is required to meet an emission limitation[4] which specifies the lowest achievable emission rate for such source.

[4] If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the authority may instead prescribe a design, operational or equipment standard. In such cases, the reviewing authority shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the required submission to EPA (see part V of this Ruling). Any permits issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained (or that the operational conditions will be properly performed) so as to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under section 304. Hereafter, the term *emission limitation* shall also include such design, operational, or equipment standards.

* * * * *

Condition 4. The emission offsets will provide a positive net air quality benefit in the affected area (see section IV.D. of this Ruling). Atmospheric simulation modeling is not necessary for volatile organic compounds and NO_X. Fulfillment of Condition 3 under section IV.A. of this Ruling and the requirements under section IV.D. of this Ruling will be considered adequate to meet this condition.

* * * * *

B. *Exemptions from certain conditions.* The reviewing authority may exempt the following sources from Condition 1 under section III.D. of this Ruling or Conditions 3 and 4 under section IV.A. of this Ruling:

(i) * * *

1. The applicant demonstrates that it made its best efforts to obtain sufficient emission offsets to comply with Condition 1 under section III.D. of this Ruling or Conditions 3 and 4 under section IV.A. of this Ruling and that such efforts were unsuccessful;

* * * * *

C. * * *

3. * * *

(i) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours may be generally credited for offsets if they meet the requirements in paragraphs IV.C.3.(i)(*1*) and (*2*) of this Ruling.

* * * * *

(ii) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours and that do not meet the requirements in paragraphs IV.C.3.(i)(*1*) and (*2*) of this Ruling may be generally credited only if:

* * * * *

(2) The applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the emissions reductions achieved by the shutdown or curtailment met the requirements of paragraphs IV.C.3.(i)(*1*) and (*2*) of this Ruling.

4. *Credit for VOC substitution.* No emission offset credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except that an emission credit may be allowed for the replacement with those compounds listed as having negligible photochemical reactivity in § 51.100(s).

5. ''*Banking*'' *of emission offset credit.* For new sources obtaining permits by applying offsets after January 16, 1979, the reviewing authority may allow offsets that exceed the requirements of reasonable progress toward attainment (Condition 3 under paragraph IV.A of this Ruling) to be ''banked'' (*i.e.,* saved to provide offsets for a source seeking a permit in the future) for use under this Ruling. Likewise, the reviewing authority may allow the owner of an existing source that reduces its own emissions to bank any resulting reductions beyond those required by the SIP for use under this Ruling, even if none of the offsets are applied immediately to a new source permit. A reviewing authority may allow these banked offsets to be used under the preconstruction review program required by part D of the Act, as long as these banked emissions are identified and accounted for in the SIP control strategy. A reviewing authority may not approve the construction of a source using banked offsets if the new source would interfere with the SIP control strategy or if such use would violate any other condition set forth for use of offsets. To preserve banked offsets, the reviewing authority should identify them in either a SIP revision or a permit, and establish rules as to how and when they may be used.

* * * * *

D. *Location of offsetting emissions.* The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this Ruling for increased emissions of any air pollutant only by obtaining emissions reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the reviewing authority may allow the owner or operator of a source to obtain such emissions reductions in another nonattainment area if the conditions under paragraphs IV.D.1 and 2 of this Ruling are met.

* * * * *

G. * * *

1. In meeting the emissions offset requirements of Condition 3 under paragraph IV.A. of this Ruling, the ratio of total actual emissions reductions to the emissions increase shall be at least 1:1 unless an alternative ratio is provided for the applicable nonattainment area in paragraphs IV.G.2 through IV.G.4 of this Ruling.

* * * * *

5. *Interpollutant offsetting.* In meeting the emissions offset requirements of paragraph IV.A, Condition 3 of this Ruling, the emissions offsets obtained shall be for the same regulated NSR pollutant unless interpollutant offsetting is permitted for a particular pollutant as specified in this paragraph IV.G.5. The offset requirements of paragraph IV.A, Condition 3 of this Ruling for direct $PM_{2.5}$ emissions or emissions of precursors of $PM_{2.5}$ may be satisfied by offsetting reductions of direct $PM_{2.5}$ emissions or emissions of any $PM_{2.5}$ precursor identified under paragraph II.A.31 (iii) of this Ruling if such offsets comply with an interprecursor trading hierarchy and ratio approved by the Administrator.

* * * * *

H. *Additional provisions for emissions of nitrogen oxides in ozone transport regions and nonattainment areas.* The requirements of this Ruling applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas where the Administrator has granted a NO_X waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply

I. * * *

2. For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under paragraph IV.K of this Ruling.

J. * * *

6. * * *

(ii) A projected actual emissions increase that, added to the amount of emissions excluded under paragraph II.A.24(ii)(*c*) of

this Ruling, sums to at least 50 percent of the amount that is a ''significant emissions increase,'' as defined under paragraph II.A.23 of this Ruling (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of paragraph IV.J.6(ii) of this Ruling, and not also within the meaning of paragraph IV.J.6(i) of this Ruling, then provisions in paragraphs IV.J.2 through IV.J.5 of this Ruling do not apply to the project.

* * * * *

K. * * *

5. *Public participation requirement for PALs.* PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with §§ 51.160 and 51.161. This includes the requirement that the reviewing authority provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The reviewing authority must address all material comments before taking final action on the permit.

* * * * *

14. *Reporting and notification requirements.* The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the reviewing authority in accordance with the applicable title V operating permit program. The reports shall meet the requirements in paragraphs IV.K.14(i) through (iii) of this Ruling.

* * * * *

V. * * *

A. *Source initiated emission offsets.* A source may propose emission offsets which involve:

(1) Reductions from sources controlled by the source owner (internal emission offsets); and/or (2) reductions from neighboring sources (external emission offsets). The source does not have to investigate all possible emission offsets. As long as the emission offsets obtained represent reasonable progress toward attainment, they will be acceptable. It is the reviewing authority's responsibility to assure that the emission offsets will be as effective as proposed by the source. An internal emission offset will be considered enforceable if it is made a SIP requirement by inclusion as a condition of the new source permit and the permit is forwarded to the appropriate EPA Regional Office.[7] An external emission offset will not be enforceable unless the affected source(s) providing the emission reductions is subject to a new SIP requirement to ensure that its emissions will be reduced by a specified amount in a specified time. Thus, if the source(s) providing the emission reductions does not obtain the necessary reduction, it will be in violation of a SIP requirement and subject to enforcement action by EPA, the State, and/or private parties.

[7] The emission offset will, therefore, be enforceable by EPA under section 113 of the Act as an applicable SIP requirement and will be enforceable by private parties under section 304 of the Act as an emission limitation.

The form of the SIP revision may be a State or local regulation, operating permit condition, consent or enforcement order, or any other mechanism available to the State that is enforceable under the Clean Air Act. If a SIP revision is required, the public hearing on the revision may be substituted for the normal public comment procedure required for all major sources under § 51.102. The formal publication of the SIP revision approval in the **Federal Register** need not appear before the source may proceed with construction. To minimize uncertainty that may be caused by these procedures, EPA will, if requested by the State, propose a SIP revision for public comment in the **Federal Register** concurrently with the State public hearing process. Of course, any major change in the final permit/SIP revision submitted by the State may require a reproposal by EPA.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

■ 6. Amend § 52.21 by:
■ a. Revising paragraphs (a)(2)(iv)(*a*) and (*f*);
■ c. Revising paragraphs (b)(1)(i)(*a*) through (*c*);
■ d. Revising paragraphs (b)(1)(iii)(*h*) and (*z*);
■ e. Revising paragraphs (b)(2)(iii)(*a*) and (*b*);
■ f. Revising paragraphs (b)(2)(iii)(*e*)(*1*) and (*f*);
■ g. Removing and reserving paragraph (b)(3)(iii)(*b*);
■ h. Revising paragraph (b)(3)(vi)(*c*);
■ i. Revising paragraph (b)(12);
■ j. Revising paragraph (b)(23)(ii);
■ k. Revising paragraphs (b)(33)(i) through (iv);
■ l. Revising paragraph (b)(41)(ii)(*c*);
■ m. Revising paragraph (b)(48)(i)(*c*);
■ n. Revising paragraph (b)(48)(ii)(*d*);
■ o. Revising paragraphs (b)(49)(i), (b)(49)(ii) introductory text, (b)(49)(ii)(*a*), and (b)(49)(iii);
■ p. Revising paragraph (b)(49)(iv)(*b*);
■ q. Revising paragraphs (b)(51);
■ r. Removing paragraphs (b)(55) through (58);
■ s. Revising paragraph (g)(4) introductory text;
■ t. Removing and reserving paragraphs (i)(1)(i) through (v);
■ u. Revising paragraph (i)(1)(vii)(*h*);
■ v. Removing paragraphs (i)(1)(ix) and (x);
■ w. Removing and reserving paragraphs (i)(6) through (12);
■ x. Revising paragraph (j)(1);
■ y. Revising paragraph (m)(1)(i)(*a*);
■ z. Removing and reserving paragraphs (m)(1)(v), (vii), and (viii);
■ aa. Revising paragraph (n)(1) introductory text;
■ bb. Revising paragraphs (p)(5) introductory text, (p)(6) and (7), and (p)(8) introductory text;
■ cc. Revising paragraph (r)(4);
■ dd. Revising paragraphs (u)(2)(ii) and (u)(3);
■ ee. Revising paragraph (w)(1); and
■ ff. Removing paragraph (cc).

The revisions read as follows: § 52.21 Prevention of significant deterioration of air quality.

(a) * * *

(2) * * *

(iv) * * *

(*a*) Except as otherwise provided in paragraph (a)(2)(v) of this section, and consistent with the definition of major modification contained in paragraph (b)(2) of this section, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in paragraph (b)(40) section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (23) of this section). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

* * * * *

(*f*) *Hybrid test for projects that involve multiple types of emissions units.* A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference for all emissions units, using the method specified in paragraphs (a)(2)(iv)(*c*) and (*d*) of this section as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(23) of this section).

* * * * *

(b) * * *

(1)(i) * * *

(*a*) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 50 tons of refuse per day,

hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(*b*) Notwithstanding the stationary source size specified in paragraph (b)(1)(i)(*a*) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(*c*) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section as a major stationary source, if the change would constitute a major stationary source by itself.

* * * * *

(iii) * * *

(*h*) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

(*z*) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and

* * * * *

(2) * * *

(iii) * * *

(*a*) Routine maintenance, repair and replacement;

(*b*) Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

* * * * *

(*e*) * * *

(*1*) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I; or

* * * * *

(*f*) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I.

* * * * *

(vi) * * *

(*c*) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

* * * * *

(12) *Best available control technology* means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Act which would be emitted from any proposed major stationary source or major modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60, 61, or 63. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

* * * * *

(23) * * *

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section does not list, any emissions rate.

* * * * *

(33) * * *

(i) The emissions unit is a reconstructed unit within the meaning of § 60.15(b)(1) of this chapter, or the emissions unit completely takes the place of an existing emissions unit;

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit;

(iii) The replacement does not alter the basic design parameters of the process unit; and

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

* * * * *

(41) * * *

(ii) * * *

(*c*) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under paragraph (b)(48) of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

* * * * *

(48) * * *

(i) * * *

(*c*) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated pollutant.

* * * * *

(ii) * * *

(*d*) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

* * * * *

(49) * * *

(i) *Greenhouse gases (GHGs),* the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraph (b)(49)(iv) of this section

and shall not be subject to regulation if the stationary source maintains its total source-wide emissions below the GHG PAL level, meets the requirements in paragraphs (aa)(1) through (15) of this section, and complies with the PAL permit containing the GHG PAL.

(ii) For purposes of paragraphs (b)(49)(iii) through (iv) of this section, the term *tpy CO_2 equivalent emissions (CO_2e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(*a*) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter—Global Warming Potentials.

* * * * *

(iii) The term *emissions increase* as used in paragraph (b)(49)(iv) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant and ''significant'' is defined as 75,000 tpy CO_2e instead of applying the value in paragraph (b)(23)(ii) of this section.

(iv) * * *

(*b*) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO_2e or more.

* * * * *

(51) *Reviewing authority* means the State air pollution control agency, local agency, other State agency, Indian tribe, or other agency authorized by the Administrator to carry out a permit program under § 51.165 or § 51.166 of this chapter, or the Administrator in the case of EPA-implemented permit programs under this section.

* * * * *

(g) * * *

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III provided that:

* * * * *

(i) * * *

(1) * * *

(vii) * * *

(*h*) Municipal incinerators capable of charging more than 50 tons of refuse per day;

* * * * *

(j) * * *

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable emissions standard and standard of performance under 40 CFR part 60, 61, or 63.

* * * * *

(m) * * *

(1) * * *

(i) * * *

(*a*) For the source, each pollutant that it would have the potential to emit in a significant amount;

* * * * *

(n) * * *

(1) With respect to a source or modification to which paragraphs (j), (k), (m), and (o) of this section apply, such information shall include:

* * * * *

(p) * * *

(5) *Class I variances.* The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the State may authorize the Administrator, provided that the applicable requirements of this section are otherwise met, to issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, $PM_{2.5}$, PM_{10}, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

* * * * *

(6) *Sulfur dioxide variance by Governor with Federal Land Manager's concurrence.* The owner or operator of a proposed source or modification which cannot be approved under paragraph (p)(5) of this section may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of 24 hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Administrator shall issue a permit to such source or modification pursuant to the requirements of paragraph (p)(8) of this section provided that the applicable requirements of this section are otherwise met.

(7) *Variance by the Governor with the President's concurrence.* In any case where the Governor recommends a variance with which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the Administrator shall issue a permit pursuant to the requirements of paragraph (p)(8) of this section provided that the applicable requirements of this section are otherwise met.

(8) *Emission limitations for Presidential or gubernatorial variance.* In the case of a permit issued pursuant to paragraph (p)(6) or (7) of this section, the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

* * * * *

(r) * * *

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of paragraphs (j) through (s) of this section shall apply to

the source or modification as though construction had not yet commenced on the source or modification.

* * * * *

(u) * * *

(2) * * *

(ii) The delegate agency shall send a copy of any public comment notice required under paragraph (q) of this section to the Administrator through the appropriate Regional Office.

(3) In the case of a source or modification which proposes to construct in a Class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase applicable if the area were designated a Class II area, and where no standard under section 111 of the Act has been promulgated for such source category, the Administrator must approve the determination of best available control technology as set forth in the permit.

* * * * *

(w) * * *

(1) Any permit issued under this section or a prior version of this section shall remain in effect, unless and until it expires under paragraph (r)(2) of this section or is rescinded under this paragraph (w).

* * * * *

[FR Doc. 2021–13905 Filed 7–16–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–178; RM–11905; DA 21–770; FR ID 36875]

Television Broadcasting Services New Orleans, Louisiana

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On April 21, 2021, the Media Bureau, Video Division (Bureau) issued a Notice of Proposed Rulemaking (NPRM) in response to a petition for rulemaking filed by the Greater New Orleans Educational Television Foundation (Petitioner), the licensee of noncommercial educational PBS member station WYES–TV, channel *11, New Orleans, Louisiana, requesting the substitution of channel *28 for channel *11 at New Orleans in the DTV Table of Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to substitute channel *28 for channel *11 at New Orleans.

DATES: Effective July 19, 2021.

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

SUPPLEMENTARY INFORMATION: The proposed rule was published at 86 FR 23340 on May 3, 2021. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel *28. No other comments were filed. The Petitioner states that WYES–TV is the only station licensed to New Orleans operating on a VHF channel, and moving to a UHF channel would improve viewers' access to WYES–TV's PBS and other public television programming by improving indoor reception and resolving VHF reception issues. In addition, the Petitioner submitted an analysis, using the Commission's *TVStudy* software analysis program, demonstrating that it will continue to serve all of the population located within the licensed channel *11 contour.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 21–178; RM–11905; DA 21–770, adopted July 2, 2021, and released July 2, 2021. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

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

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622, in paragraph (i), amend the Post-Transition Table of DTV Allotments, under Louisiana, by revising the entry for ''New Orleans'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) * * *

Community	Channel No.
* * * * *	
LOUISIANA	
* * * * *	
New Orleans	15, 21, 26, *28, 29, *31, 36, 43, 50
* * * * *	

[FR Doc. 2021–15260 Filed 7–16–21; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 86, No. 135
Monday, July 19, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0547; Project Identifier MCAI–2021–00574–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A318, A319, A320, A321, A330–200, A330–200 Freighter, A330–300, A330–800, A330–900, A340–200, A340–300, A340–500, A340–600, and A380–800 series airplanes. This proposed AD was prompted by a determination that repetitive disconnection and reconnection of certain parts manufacturer approval (PMA) nickel-cadmium (Ni-Cd) batteries during airplane parking or storage could lead to a reduction in capacity of those batteries. This proposed AD would require replacing certain PMA Ni-Cd batteries with serviceable Ni-Cd batteries, or maintaining the electrical storage capacity of those PMA Ni-Cd batteries during airplane storage or parking. This proposed AD corresponds to a previously proposed AD on type design Ni-Cd batteries with the same unsafe condition on the same model airplanes. 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 September 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 NPRM, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; internet *https://www.airbus.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0547; 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: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@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–2021–0547; Project Identifier MCAI–2021–00574–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 NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued an NPRM, Docket Number FAA–2021–0350, which published in the **Federal Register** on May 11, 2021 (86 FR 25810). The NPRM addresses an unsafe condition for certain type design Ni-Cd batteries on all Airbus SAS Model A318, A319, A320, A321, A330–200, A330–200 Freighter, A330–300, A330–800, A330–900, A340–200, A340–300, A340–500, A340–600, and A380–800 series airplanes. The NPRM corresponds to European Union Aviation Safety Agency (EASA) AD 2020–0274, dated December 10, 2020 (EASA AD 2020–0274). The NPRM was prompted by a report that

repetitive disconnection and reconnection of certain Ni-Cd batteries during airplane parking or storage could lead to a reduction in capacity of those batteries.

PMA Ni-Cd batteries are similar in design to the type design Ni-Cd batteries. The FAA has determined that any PMA part approved for the type design Ni-Cd batteries identified in the May 11, 2021 NPRM are also affected by the unsafe condition; therefore, this proposed AD would apply to those PMA Ni-Cd batteries.

The FAA has determined that repetitive disconnection and reconnection of certain PMA Ni-Cd batteries during airplane parking or storage could lead to a reduction in capacity of those batteries The FAA is proposing this AD to address reduced capacity of certain PMA Ni-Cd batteries, which could lead to reduced battery endurance performance and possibly result in failure to supply the minimum essential electrical power during abnormal or emergency conditions.

Related Service Information Under 1 CFR Part 51

Airbus has issued Alert Operators Transmission (AOT) A24N006–20, dated September 9, 2020; AOT A24L007–20, dated September 23, 2020; and AOT A24R009–20, dated September 23, 2020. This service information describes procedures for maintaining the electrical storage capacity of Ni-Cd batteries during airplane storage or parking. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require replacing certain PMA Ni-Cd batteries with serviceable Ni-Cd batteries, or maintaining the electrical storage capacity of those PMA Ni-Cd batteries during airplane storage or parking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect up to 1,814 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
5 work-hours × $85 per hour = $425	$8,000	$8,425	Up to $15,282,950.

Authority for This Rulemaking

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

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

Regulatory Findings

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–2021–0547; Project Identifier MCAI–2021–00574–T.

(a) Comments Due Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1) through (7) of this AD, certificated in any category, equipped with any parts manufacturer approval (PMA) part approved for the type design nickel cadmium (Ni-Cd) batteries identified in Figure 1 to paragraph (c) of this AD.

Figure 1 to paragraph (c) – *Ni-Cd battery*

Airplane Type	Part Number
A318, A319, A320 and A321	2758 or 416526
A330 and A340	4059, 405CH or 505CH
A380	505CH2

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

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

(3) Model A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

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

(5) Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, –343, –743L, –841, and –941 airplanes.

(6) Model A340–211, –212, –213, –311, –312, –313, –541, –542, –642, and –643 airplanes.

(7) Model A380–841, –842, and –861 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Unsafe Condition

This AD was prompted by a determination that repetitive disconnection and reconnection of certain PMA Ni-Cd batteries during airplane parking or storage could lead to a reduction in capacity of those batteries. The FAA is issuing this AD to address reduced capacity of certain PMA Ni-Cd batteries, which could lead to reduced battery endurance performance and possibly result in failure to supply the minimum essential electrical power during abnormal or emergency conditions.

(f) Compliance

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

(g) Definitions

(1) For the purposes of this AD, a serviceable PMA Ni-Cd battery is defined as a PMA battery approved for a Ni-Cd battery identified in Figure 1 to paragraph (c) of this AD, all serial numbers, which was, prior to installation, fully (re)charged in an approved battery shop at constant current and after (re)charging, was never installed and (re)connected to an airplane which was parked or stored for more than 2 days, except when the disconnection and subsequent connection of the battery has been accomplished using the preservation procedures as defined in the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD. Where the applicable service information refers to Ni-Cd battery part numbers, use those procedures, as applicable, for the PMA batteries that are approved for that part number.

(i) For A318, A319, A320 and A321 airplanes: Airbus Alert Operators Transmission (AOT) A24N006–20, dated September 9, 2020.

(ii) For A330 and A340 airplanes: Airbus AOT A24L007–20, dated September 23, 2020.

(iii) For A380 airplanes: Airbus AOT A24R009–20, dated September 23, 2020.

(2) For the purposes of this AD, a serviceable non-PMA Ni-Cd battery is defined as a type design Ni-Cd battery having a part number identified in Figure 1 to paragraph (c) of this AD, all serial numbers, which was, prior to installation, fully (re)charged in an approved battery shop at constant current and after (re)charging, was never installed and (re)connected to an airplane which was parked or stored for more than 2 days, except when the disconnection and subsequent connection of the battery has been accomplished using the preservation procedures as defined in the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD.

(3) For the purposes of this AD, a reconnection cycle is defined as one instance of disconnection and connection of a battery, installed on an airplane, to the airplane electrical system during parking or storage periods (for A330 and A340 airplanes) or parking periods (for A318, A319, A320, A321 and A380 airplanes) since the last battery charge at constant current in an approved battery shop, as defined in the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD, except when the conditions specified in paragraph (g)(3)(i) or (ii) have been met. Where the applicable service information refers to Ni-Cd battery part numbers, use those procedures, as applicable, for the PMA batteries that are approved for that part number.

(i) The on-wing battery preservation procedures as defined in the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD have been applied.

(ii) The battery has been disconnected, physically removed from the airplane and then subsequently installed and connected following a shop visit as defined in the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD.

(4) *For the purposes of this AD:* Group 1 airplanes are those which have a PMA part approved for Ni-Cd batteries identified in Figure 1 to paragraph (c) of this AD installed, which has more than 4 reconnection cycles. Group 2 airplanes are those which have a PMA part approved for Ni-Cd batteries identified in Figure 1 to paragraph (c) of this AD installed, which has 4 or less reconnection cycles, or have a serviceable PMA Ni-Cd battery.

(h) Replacement

(1) *For Group 1 airplanes:* Within the applicable compliance time specified in paragraphs (h)(1)(i) and (ii) of this AD and thereafter before each release to service of an airplane after parking or storage, as applicable, replace each PMA part approved for a Ni-Cd battery identified in Figure 1 to paragraph (c) of this AD with a serviceable PMA Ni-Cd battery or serviceable non-PMA Ni-Cd battery, in accordance with the instructions of the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD. Where the applicable service information refers to Ni-Cd battery part numbers, use those procedures, as applicable, for the PMA batteries that are approved for that part number. After replacement of a battery with a serviceable PMA Ni-Cd battery, the airplane becomes a Group 2 airplane.

Note 1 to paragraph (h)(1): For airplanes on which a battery is replaced with a serviceable non-PMA Ni-Cd battery, the airplane is no longer affected by this AD. Refer to Docket Number FAA–2021–0350 (86 FR 25810; May 11, 2021) [as a notice of proposed rulemaking] for requirements for serviceable non-PMA Ni-Cd batteries.

Note 2 to paragraph (h)(1): For Group 1 and Group 2 airplanes, guidance on preventing further reduction of the capacity of Ni-Cd batteries can be found in the off-wing or on-wing battery preservation procedures (including battery shop visits, as applicable) detailed in the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD.

(i) *For A318, A319, A320 and A321 airplanes:* Within 4 months after the effective date of this AD.

(ii) *For A330, A340, and A380 airplanes:* Within 6 months after the effective date of this AD.

(2) *For Group 2 airplanes:* A Group 2 airplane on which the preservation procedures, as detailed in the applicable

service information specified in paragraphs (g)(1)(i) through (iii) of this AD, are not accomplished becomes a Group 1 airplane after application of more than 4 reconnection cycles and must comply with paragraph (h)(1) of this AD. A Group 2 airplane on which preservation procedures, as detailed in the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD, continue to be accomplished, remains a Group 2 airplane. Where the applicable service information refers to Ni-Cd battery part numbers, those procedures, as applicable, must be used for the PMA batteries that are approved for that part number.

(i) Preservation

For Group 2 airplanes: As of the effective date of this AD, provided that the preservation procedures (off-wing or on-wing, as applicable) are accomplished on an airplane in accordance with the instructions of the applicable service information specified in paragraphs (g)(1)(i) through (iii) of this AD, no replacements of affected parts in accordance with the requirements of paragraph (h)(1) of this AD are required (anymore) for that airplane. Where the applicable service information refers to Ni-Cd battery part numbers, those procedures, as applicable, must be used for the PMA batteries that are approved for that part number.

(j) No Reporting Requirement

Although the service information specified in paragraphs (g)(1)(i) through (iii) of this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) 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 (l)(1) 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 the European Union Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (k)(2) of this AD, if any service information 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.

(l) Related Information

(1) For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov.*

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; internet *https://www.airbus.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on June 29, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–15148 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0536; Airspace Docket No. 21–ASO–20]

RIN 2120–AA66

Proposed Establishment of Class D Airspace, and Amendment of Class E Airspace; Gulf Shores, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace and amend Class E airspace extending upward from 700 feet above the surface for Jack Edwards National Airport, Gulf Shores, AL, as a new air traffic control tower will service the airport. This action would also update the airport's name and geographic coordinates under the existing Class E airspace. 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 September 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–2020–0536; Airspace Docket No. 21–ASO–20, 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 on line at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Class E airspace for Jack Edwards National Airport, Gulf Shores, AL.

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2020–0536 and Airspace Docket No. 21–ASO–20) 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–2020–0536; Airspace Docket No. 21–ASO–20''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to establish Class D airspace for Jack Edwards National Airport, Gulf Shores, AL, as a new air traffic control tower will service the airport. Also, an airspace evaluation resulted in increasing the radius of the existing Class E airspace extending upward from 700 feet above the surface to 6.8 miles from 6.5 miles. In addition, the FAA proposes to update the name and geographic coordinates of the airport to coincide with the FAA's aeronautical database. Finally, the city name would be removed from the airspace header under the existing Class E airspace to comply with the 7400.M.

Class D and Class E airspace designations are published in Paragraphs 5000, and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

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 Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO AL D Gulf Shores, AL [New]

Jack Edwards National Airport, AL
(Lat. 30°17′23′ W″ N, long. 87°40′18″ W)

That airspace extending upward from the surface to and including 2,000 feet MSL, within a 4.3-mile radius of Jack Edwards National Airport, excluding that airspace within Restricted Area R–2908. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASO AL E5 Gulf Shores, AL [Amended]

Jack Edwards National Airport, AL
(Lat. 30°17′23′ W″ N, long. 87°40′18″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Jack Edwards National Airport, excluding that airspace within Restricted Area R–2908.

Issued in College Park, Georgia, on July 13, 2021.

Matthew N. Cathcart,

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

[FR Doc. 2021–15221 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0170; Airspace Docket No. 21–AEA–4]

RIN 2120–AA66

Proposed Establishment of Class E Airspace and Proposed Amendment of Class D Airspace; East Hampton, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E surface airspace for East Hampton Airport, East Hampton, NY, to assist aircraft landing and departing the airport when the air traffic control tower is closed. In addition, this action would amend Class D airspace by replacing the outdated term Airport/Facility Directory with the term Chart Supplement in the airport description and amend the radius and ceiling as the Federal Aviation Administration (FAA) deemed the airspace adjustments were necessary.

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 September 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–2021–0170; Airspace Docket No. 21–AEA–4 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2021–0170 and Airspace Docket No. 21–AEA–4) 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–2021–0170; Airspace Docket No. 21–AEA–4.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to establish Class E surface airspace for East Hampton Airport, East Hampton, NY, providing the controlled airspace required to support aircraft landing and departing in IFR conditions at this airport. In addition, this action would amend Class D airspace by decreasing the radius to 4.2 miles (from 4.8) and the ceiling to 2,000 feet MSL (from 2,500) and replacing the outdated term Airport/Facility Directory with the term Chart Supplement in the airport description.

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 D and E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

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 Federal Aviation Administration Order 7400.11E, Airspace Designations, and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA NY D East Hampton, NY [Amended]

East Hampton Airport, NY
(Lat. 40°57′34″ N, long. 72°15′06″ W)

That airspace extending upward from the surface up to and including 2,000 feet MSL within a 4.2-mile radius of East Hampton Airport. This Class D airspace area is effective during 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.

* * * * *

AEA NY0522 E2 East Hampton, NY [New]

East Hampton Airport, NY
(Lat. 40°57′34″ N, long. 72°15′06″ W)

That airspace extending upward from the surface within a 4.2-mile radius of East Hampton Airport. This Class E airspace area is effective during 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 July 13, 2021.

Matthew N. Cathcart,

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

[FR Doc. 2021–15220 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0156; FRL–8697–01–R4]

Air Plan Approval; FL, GA, NC, SC; Interstate Transport (Prongs 1 and 2) for the 2015 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: Through this supplemental notice of proposed rulemaking (''supplemental proposal'' or ''SNPRM''), the Environmental Protection Agency (EPA) is supplementing its proposed approval of state implementation plan (SIP) submissions from Florida, Georgia, North Carolina, and South Carolina (four Southeastern States), addressing the Clean Air Act (CAA or Act) interstate transport requirements for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). Specifically, EPA is proposing to rely on updated analysis using a 2021 analytic year to support the proposed finding that each state's implementation plan contains adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

DATES: Written comments must be received on or before August 18, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0156, at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT:

Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Adams can be reached by telephone at (404) 562–9009, or via electronic mail at *adams.evan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background for This Supplemental Proposal

On December 30, 2019, EPA proposed to approve SIP submissions from six Southeast States (*i.e.,* Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee) [1] as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I), or the Good Neighbor provision, for the 2015 8-hour ozone NAAQS. *See* 84 FR 71854. Refer to the December 30, 2019, notice of proposed rulemaking (NPRM) for an explanation of the CAA requirements, the four-step framework that EPA applies under the Good Neighbor provision for ozone NAAQS, a detailed summary of the state submissions, and EPA's proposed rationale for approval. *See* 84 FR 71854. The public comment period for the December 30, 2019, NPRM closed on January 29, 2020.[2]

Subsequent to the December 30, 2019, proposal, two events occurred which have caused EPA to adjust its analysis of the aforementioned SIP submissions, and consequently, to issue this supplemental proposal. First, on May 19, 2020, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued its ruling in *Maryland* v. *EPA,* 958 F.3d 1185 (D.C. Cir. 2020) (*Maryland*). That case involved EPA's denial of administrative petitions filed by the states of Maryland and Delaware under CAA section 126(b), seeking to have EPA impose emissions limits on sources in upwind states alleged to be emitting in violation of the Good Neighbor Provision. The court held that EPA must address Good Neighbor obligations consistent with the 2021 attainment date for downwind areas classified as being in Marginal nonattainment under the 2015 8-hour ozone NAAQS, ''not at some later date.'' 958 F.3d at 1203–04 (citing *Wisconsin* v. *EPA,* 938 F.3d 303, 314 (D.C. Cir. 2019) (*Wisconsin*)). The court disagreed with EPA that use of a 2023 analytic year, consistent with the 2024 attainment date for areas classified as being in Moderate nonattainment, was a proper reading of the court's earlier decision in *Wisconsin. Id.* at 1204. In light of the *Maryland* decision, EPA is evaluating these states' Good Neighbor obligations using a 2021 analytic year, corresponding to the 2021 Marginal area attainment date under the 2015 8-hour ozone NAAQS.

Second, on October 30, 2020, EPA released and accepted public comment on updated 2023 modeling that used the 2016 emissions platform developed under the EPA/Multi-Jurisdictional Organization (MJO)/state collaborative project as the primary source for the base year and future year emissions data.[3] On April 30, 2021, EPA published the final Revised Cross-State Air Pollution Rule (CSAPR) Update using the same modeling that was made publicly available in the proposed rulemaking for the Revised CSAPR Update.[4] Although that modeling focused on the year 2023, EPA conducted an ''interpolation'' analysis of these modeling results to generate air quality and contribution values for the 2021 analytic year, consistent with the *Maryland* holding, as the relevant analytic year for the 2015 8-hour ozone NAAQS.

This new modeling and analysis now provides the primary basis for EPA's proposed approval of the Good Neighbor SIP submissions for Florida, Georgia, North Carolina, and South Carolina. By relying on the updated modeling results, EPA is using the most current and technically appropriate information as the primary basis for this proposed rulemaking. As explained in greater detail in this supplemental proposal, this new analysis indicates that in 2021, these four states are not projected to impact any downwind states at or above a contribution threshold of one percent of the 2015 8-hour ozone NAAQS, which is equivalent to 0.70 parts per billion (ppb). Thus, EPA is proposing to approve these four states' submissions.

Additionally, EPA previously proposed to approve infrastructure SIP elements submitted to fulfill the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) by the states of Alabama and Tennessee for the 2015 8-hour ozone NAAQS in the December 30, 2019, NPRM referenced above. This supplemental proposal does not address these submissions, and EPA is deferring action on the referenced SIP submissions from Alabama and Tennessee at this time.

II. EPA's Analysis

On May 19, 2020, the D.C. Circuit issued the *Maryland* decision that cited the *Wisconsin* decision in holding that EPA must assess the impact of interstate transport on air quality at the next downwind attainment date, including Marginal area attainment dates, in evaluating the basis for EPA's denial of a petition under CAA section 126(b). *See* 958 F.3d 1185, 1203–04. The court noted that ''section 126(b) incorporates the Good Neighbor Provision,'' and therefore ''the EPA must find a violation [of section 126] if an upwind source will significantly contribute to downwind nonattainment at the next downwind attainment deadline. Therefore, EPA must evaluate downwind air quality at that deadline, not at some later date.'' *Id.* at 1204 (emphasis added). EPA interprets the court's holding in *Maryland* as requiring the Agency, under the Good Neighbor provision, to address Good Neighbor obligations by the next applicable attainment date for downwind areas, including a Marginal

[1] The submittals from these six southeastern states were submitted separately under the following cover letters: Alabama Department of Environmental Management dated August 20, 2018 (received by EPA on August 27, 2018); Florida Department of Environmental Protection dated September 18, 2018 (received by EPA on September 26, 2018); Georgia Environmental Protection Division dated September 19, 2018 (received by EPA on September 24, 2018); North Carolina Department of Environmental Quality dated September 27, 2018 (received by EPA October 10, 2018); South Carolina Department of Health and Environmental Control dated and received by EPA on September 7, 2018; and Tennessee Department of Environment and Conservation dated September 13, 2018 (received by EPA on September 17, 2018).

[2] On March 24, 2020, former EPA Region 4 Administrator Mary Walker signed a document (hereinafter referred to as the March 24, 2020 document) that EPA intended to become a final rule upon publication in the **Federal Register**. However, the March 24, 2020 document was never published in the **Federal Register**. Further, on January 19, 2021, former EPA Region 4 Administrator Mary Walker signed a document (hereinafter referred to as the January 19, 2021 document), which EPA posted to its website at *https://www.epa.gov/air-quality-implementation-plans/epas-approval-2015-8-hour-ozone-interstate-transport-requirements.* EPA noted in that posting ''Notwithstanding the fact that the EPA is posting a pre-publication version, the final rule will not be promulgated until published in the **Federal Register**.'' EPA will not publish either the March 24, 2020 document or the January 19, 2021 document in the **Federal Register**; therefore, neither document will result in a final rule.

[3] *See* Revised CSAPR Update, 86 FR 23054; *see also* Emissions Modeling TSD titled ''Preparation of Emissions Inventories for the 2016v1 North American Emissions Modeling Platform.'' This TSD is available in the docket for this proposed action and at *https://www.epa.gov/air-emissionsmodeling/2016v1-platform.* The underlying modeling files are available on data drives in the Docket office for public review. *See* the docket for the Revised CSAPR Update (EPA–HQ–OAR–2020–0272). See also in the docket for this supplemental proposal the document titled *Air Quality Modeling Data Drives_Final RCU.pdf* for a file inventory and instructions on how to access the modeling files.

[4] *See* 86 FR 23054.

area attainment date under CAA section 181 for ozone nonattainment.[5]

The Marginal area attainment date for the 2015 8-hour ozone NAAQS is August 3, 2021.[6] *See* CAA section 181(a); 40 CFR 51.1303; 83 FR 25776 (June 4, 2018, effective August 3, 2018). Historically, EPA has considered the last full ozone season prior to the attainment date as supplying an appropriate analytic year for assessing Good Neighbor obligations. *See, e.g.,* 81 FR 74540. While this would be 2020 for an August 2021 attainment date (which falls within the 2021 ozone season running from May 1 to September 30), in this circumstance, when the 2020 ozone season is wholly in the past, it is appropriate to focus on 2021 to address Good Neighbor obligations to the extent possible by the 2021 attainment date. EPA does not believe it would be appropriate to select an analytic year that is wholly in the past because EPA interprets the Good Neighbor provision as forward looking. *See* 85 FR 68964, 68981; *see also Wisconsin,* 938 F.3d at 322. Consequently, as discussed further below, EPA is using the analytic year of 2021 in this supplemental proposal to evaluate Good Neighbor obligations for Florida, Georgia, North Carolina, and South Carolina with respect to the 2015 8-hour ozone NAAQS.

The December 30, 2019, NPRM proposing approval of the 2015 8-hour ozone Good Neighbor SIPs for Florida, Georgia, North Carolina, and South Carolina predates the D.C. Circuit's decision in *Maryland.* This decision also came after the close of the public comment period on the December 30, 2019, NPRM. However, this decision bears directly on EPA's action and its consideration of the comments received on the December 30, 2019, NPRM. As discussed above and in accordance with the *Wisconsin* and *Maryland* decisions, the Agency considers 2021 to be the relevant analytic year for the purpose of determining whether sources in Florida, Georgia, North Carolina, and South Carolina will significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other states.

EPA is proposing to determine that the Florida, Georgia, North Carolina, and South Carolina Good Neighbor SIP submissions for the 2015 8-hour ozone NAAQS are approvable using a 2021 analytic year. The SIP submissions from Florida, Georgia, North Carolina, and South Carolina rely on analysis of the year 2023 to show that they do not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state. However, given the holdings in *Wisconsin* and *Maryland,* analysis of that year is no longer sufficient where the next attainment date for the 2015 8-hour ozone NAAQS is in 2021.[7] Nonetheless, the analysis EPA has conducted for the 2021 analytic year corroborates the conclusion reached in each state's submission and in the December 30, 2019, NPRM. In accordance with the holdings in *Wisconsin* and *Maryland,* EPA's supplemental analysis relies on 2021 as the relevant attainment year for evaluating Good Neighbor obligations for Florida, Georgia, North Carolina, and South Carolina with respect to the 2015 8-hour ozone NAAQS using the same four-step interstate transport framework described in the proposal of this action. *See* 84 FR 71855.

In step 1, EPA identifies locations where the Agency expects there to be nonattainment or maintenance receptors for the 2015 8-hour ozone NAAQS based on analysis of ozone concentrations at individual monitoring sites in the appropriate analytic year. Where EPA's analysis shows that a monitoring site does not fall under the definition of a nonattainment or maintenance receptor in the analytic year, that site is excluded from further analysis under EPA's four-step interstate transport framework.[8] For monitoring sites that are identified as nonattainment or maintenance receptors in the appropriate analytic year, EPA proceeds to step 2 of the four-step interstate transport framework by identifying whether emissions in upwind states contribute to those receptors in amounts that exceed a contribution threshold.

EPA's approach to identifying ozone nonattainment and maintenance receptors in this supplemental proposal is consistent with the approach described in the December 30, 2019, NPRM, and is the same approach used in previous transport rulemakings. EPA's approach gives independent consideration to both the ''contribute significantly to nonattainment'' and the ''interfere with maintenance'' prongs of CAA section 110(a)(2)(D)(i)(I), consistent with the D.C. Circuit's direction in *North Carolina* v. *EPA,* 531 F.3d 896, 910–911 (2008) (holding that EPA must give ''independent significance'' to each prong of CAA section 110(a)(2)(D)(i)(I)).

For the purpose of this supplemental proposal, EPA identifies nonattainment receptors as those monitoring sites that are projected to have average design values that exceed the NAAQS and that are also measuring nonattainment based on the most recent monitored design values. This approach is consistent with prior transport rulemakings, such as CSAPR Update, where EPA defined nonattainment receptors as those areas that both currently monitor nonattainment and that EPA projects will be in nonattainment in the future compliance year.[9]

In addition, in this supplemental proposal, EPA identifies a receptor to be a ''maintenance'' receptor for purposes of defining interference with maintenance, consistent with the method used in CSAPR and upheld by the D.C. Circuit in *EME Homer City*

[5] EPA notes that the court in *Maryland* did not have occasion to evaluate circumstances in which EPA may determine that an upwind linkage to a downwind air quality problem exists at steps 1 and 2 of the four-step interstate transport framework by a particular attainment date, but for reasons of impossibility or profound uncertainty the Agency is unable to mandate upwind pollution controls by that date. *See Wisconsin,* 938 F.3d at 320. The D.C. Circuit noted in *Wisconsin* that upon a sufficient showing, these circumstances may warrant a certain degree of flexibility in effectuating the implementation of the Good Neighbor provision. Such circumstances are not at issue in this proposed action.

[6] The December 30, 2019, NPRM incorrectly referred to the 2015 8-hour ozone NAAQS Marginal attainment date as August 2, 2021, and the Moderate attainment date as August 2, 2024. *See* 84 FR 71857.

[7] EPA recognizes that Florida, Georgia, North Carolina, and South Carolina as well as other states may have been influenced by EPA's 2018 guidance memoranda (issued prior to the *Wisconsin* and *Maryland* decisions) in making Good Neighbor submissions that relied on EPA's modeling of 2023. When there are intervening changes in relevant law or legal interpretation of CAA requirements, states are generally free to withdraw, supplement, and/or re-submit their SIP submissions with new analysis (in compliance with CAA procedures for SIP submissions). While Florida, Georgia, North Carolina, and South Carolina have not done this, as explained in this section, EPA's proposed independent analysis concludes that the states' submissions in this instance are approvable.

[8] While EPA has focused its analysis in this notice on the year 2021, the Revised CSAPR Update modeling data in years 2023 and 2028 confirm that no new linkages to downwind receptors are projected for these states in later years. EPA notes this is consistent with an overall, long-term downward trend in emissions from these states. *See* Revised CSAPR Update, 86 FR 23054; *see also* Air Quality Modeling Technical Support Document for the final Revised Cross-State Air Pollution Rule Update,'' available in the docket for this proposed action and at *https://www.epa.gov/csapr/revised-cross-state-air-pollution-rule-update.* The results of this modeling are included in a spreadsheet in the docket for this proposed action titled ''Ozone Design Values and Contributions for the Revised CSAPR Update.xlsx''.

[9] *See* 81 FR 74504 (October 26, 2016). The Revised CSAPR Update also used this approach. *See* 86 FR 23054 (April 30, 2021). This same concept, relying on both current monitoring data and modeling to define nonattainment receptor, was also applied in CAIR. *See* 70 FR 25241 (January 14, 2005). *See also North Carolina,* 531 F.3d at 913–914 (affirming as reasonable EPA's approach to defining nonattainment in CAIR).

Generation, L.P. v. *EPA,* 795 F.3d 118, 136 (DC Cir. 2015).[10] Specifically, monitoring sites with a maximum projected design value in 2021 that exceeds the NAAQS are identified as maintenance receptors in 2021. EPA's method of defining these receptors takes into account both measured data and reasonable projections based on modeling analysis.[11]

Recognizing that nonattainment receptors are also, by definition, maintenance receptors, EPA often uses the term ''maintenance-only'' to refer to receptors that are not also nonattainment receptors. Consistent with the methodology described above, monitoring sites with a projected maximum design value that exceeds the NAAQS, but with a projected average design value that is below the NAAQS, are identified as maintenance-only receptors. In addition, those sites that are currently measuring ozone concentrations below the level of the applicable NAAQS, but are projected to be nonattainment based on the average design value and that, by definition, are projected to have a maximum design value above the standard are also identified as maintenance-only receptors.

Florida, Georgia, North Carolina, and South Carolina relied on the modeling included in an EPA memorandum dated March 2018 (''March 2018 memorandum''),[12] as well as state specific ozone precursor emission trends, design values, and regulations, to develop their SIPs as EPA had suggested. In the December 30, 2019, NPRM, EPA also relied on the modeling results included in the March 2018 memorandum. *See* 84 FR 71855–71856, 71859–71861. However, EPA is now supplementing the December 30, 2019, NPRM with newly available, updated modeling that was developed using a 2016-based modeling platform prepared under the EPA/Multi-Jurisdictional Organization/state collaborative) project.[13] The results of this updated modeling were released with the NPRM for the Revised CSAPR Update on October 30, 2020, and finalized in the final Revised CSAPR Update without changes. *See* 86 FR 23054 (April 30, 2021). The updated modeling includes 2016 base year and 2023 projection year model simulations that were analyzed to identify receptors and determine interstate ozone contributions to these receptors in 2021. Specifically, EPA developed an interpolation technique based on modeling for 2023 and measured ozone data to determine ozone design values for 2021. To estimate average and maximum design values for 2021, EPA first performed air quality modeling for 2016 and 2023 to project measured 2016 design values to 2023. The 2023 design values were then coupled with the corresponding 2016 measured design values to estimate design values in 2021. The Air Quality Modeling technical support document (TSD) developed in connection with the Revised CSAPR Update, which is included in the docket for this supplemental proposal, describes the modeling and interpolation for estimating design values in 2021.[14]

EPA's analysis for this supplemental proposal, supported by the modeling analysis completed in the Revised CSAPR Update, further substantiates EPA's proposed approval in the December 30, 2019, NPRM. To quantify the contribution of emissions from specific upwind states on 2021 8-hour design values for the identified downwind nonattainment and maintenance receptors, EPA first performed nationwide, state-level ozone source apportionment modeling for 2023. The source apportionment modeling provided contributions to ozone from precursor emissions of anthropogenic nitrogen oxides (NO_X) and volatile organic compounds (VOCs) in each state, individually. The modeled 2023 contributions were then applied in a relative sense to the 2021 average design value to estimate the contributions in 2021 from each state to each receptor. Details on the source apportionment modeling and the methods for determining contributions in 2021 are in the Air Quality Modeling TSD in the docket.

The 2021 design values and contributions were examined to determine if Florida, Georgia, North Carolina, and South Carolina contribute at or above the threshold of one percent of the 2015 8-hour ozone NAAQS (0.70 ppb) to any downwind nonattainment or maintenance receptor.[15] Table 1 presents the highest contribution in 2021 from Florida, Georgia, North Carolina, and South Carolina to a downwind nonattainment or maintenance receptor.

TABLE 1—MAXIMUM CONTRIBUTION FROM EACH STATE TO DOWNWIND NONATTAINMENT OR MAINTENANCE-ONLY RECEPTORS IN 2021 [16]

State	Maximum contribution (ppb)	Downwind receptor		
		County	State	AQS ID
Florida	0.34	Galveston	TX	481671034
Georgia	0.39	Fairfield	CT	90011123
North Carolina	0.69	Fairfield	CT	90011123

[10] *See* 76 FR 48208 (August 8, 2011). The CSAPR Update and Revised CSAPR Update also used this approach. *See* 81 FR 74504 (October 26, 2016) and 86 FR 23054 (April 30, 2021).

[11] Further, as recognized by the court in *Wisconsin,* 938 F.3d at 320, nonattainment areas that do not measure an exceedance of the level of the standard in a given year, even if not sufficient to be redesignated to attainment based on the three-year design value, may qualify for up to two one-year extensions of their attainment dates, as provided at CAA section 181(a)(5). Thus, simply providing the value that would be needed in 2020 in order for an area to be designated to attainment using the three-year average does not present a complete picture of the likelihood that an area will be ''reclassified'' or ''bumped-up.''

[12] ''Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I),'' March 27, 2018, available at *https://www.epa.gov/sites/production/files/2018-03/documents/transport_memo_03_27_18_1.pdf* and available in the docket for this SNPRM.

[13] *See* 86 FR 23054. The results of this modeling are included in a spreadsheet in the docket for this proposed action titled *Ozone Design Values and Contributions Revised CSAPR Update.xlsx.* The underlying modeling files are available on data drives in the Docket office for public review under the docket for the Revised CSAPR Update (EPA–HQ–OAR–2020–0272). *See* also in the docket for this proposed action the document titled *Air Quality Modeling Data Drives_Final RCU.pdf* for a file inventory and instructions on how to access the modeling files.

[14] *See* ''Air Quality Modeling Technical Support Document for the Revised Cross-State Air Pollution Rule Update,'' available in the docket for this supplemental proposal and at *https://www.epa.gov/csapr/revised-cross-state-air-pollution-rule-update.* This TSD was originally developed to support EPA's action in the Revised CSAPR Update, as relating to outstanding Good Neighbor obligations under the 2008 8-hour ozone NAAQS. While developed in this separate context, the data and modeling outputs, including interpolated design values for 2021, may be evaluated with respect to the 2015 8-hour ozone NAAQS and used in support of this supplemental proposed action.

[15] This supplemental proposal relies on the same contribution threshold of one percent of the NAAQS proposed in the December 30, 2019, NPRM. *See* 85 FR 68964.

TABLE 1—MAXIMUM CONTRIBUTION FROM EACH STATE TO DOWNWIND NONATTAINMENT OR MAINTENANCE-ONLY RECEPTORS IN 2021 [16]—Continued

State	Maximum contribution (ppb)	Downwind receptor		
		County	State	AQS ID
South Carolina	0.25	Fairfield	CT	90011123

Based on the analysis of the updated modeling as described above, EPA proposes to find that it is reasonable to conclude that Florida, Georgia, North Carolina, and South Carolina, individually, will not contribute greater than one percent of the 2015 8-hour ozone NAAQS to any potential nonattainment or maintenance receptors in 2021.

EPA also analyzed ozone precursor emissions trends in Florida, Georgia, North Carolina, and South Carolina to support the findings from the air quality analysis. In evaluating emissions trends, EPA first reviewed the information submitted by Florida, Georgia, North Carolina, and South Carolina and then reviewed additional information derived from EPA's National Emissions Inventory. EPA focused on state-wide emissions of NO_X and VOCs in Florida, Georgia, North Carolina, and South Carolina.[17] Combined, emissions from mobile sources, electric generating units (EGUs), industrial facilities, gasoline vapors, and chemical solvents are a large percentage of anthropogenic emissions of ozone precursors. This evaluation looks at both past emissions trends, as well as projected trends.

As shown in Table 2, from 2011 to 2023 annual total NO_X and VOC emissions are projected to decline in the following amounts, respectively: By 56 percent and 35 percent in Florida; by 57 percent and 27 percent in Georgia; by 53 percent and 18 percent in North Carolina; and by 47 percent and 24 percent in South Carolina. The projected reductions are a result of the implementation of existing control programs that will continue to decrease NO_X and VOC emissions in Florida, Georgia, North Carolina, and South Carolina, as indicated by EPA's most recent 2021 and 2023 projected emissions used in the updated 2023 modeling.

TABLE 2—ANNUAL EMISSIONS OF NO_X AND VOC FROM ANTHROPOGENIC SOURCES IN FLORIDA, GEORGIA, NORTH CAROLINA, AND SOUTH CAROLINA

[Tons per year][18, 19]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	Projected 2021	Projected 2023
FL NO_X	585,605	569,789	553,974	538,158	487,946	411,085	398,245	346,680	312,677	276,138	249,391
FL VOC	637,315	598,992	560,669	522,345	506,276	473,769	454,694	442,470	430,246	419,961	411,321
GA NO_X	412,070	385,178	358,287	331,395	314,900	288,421	274,956	255,975	232,538	202,406	177,951
GA VOC	338,259	325,680	313,101	300,523	306,404	290,702	286,047	276,886	267,724	244,549	240,387
NC NO_X	365,550	345,513	325,477	305,441	281,599	242,797	229,047	214,574	198,442	181,669	169,258
NC VOC [20]	328,942	321,229	313,516	305,803	294,299	272,534	265,404	262,394	259,385	269,915	267,208
SC NO_X	205,952	194,924	183,896	172,868	160,064	157,222	148,786	139,694	128,656	114,238	107,420
SC VOC	183,937	178,844	173,750	168,656	164,822	160,869	158,476	153,877	149,279	143,119	140,107

[18] The annual emissions data for the years 2011 through 2019 in Tables 2 and 3 were obtained from EPA's National Emissions Inventory website: *https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data.* Emissions from miscellaneous sources are not included in the state totals presented in Table 2. The emissions for 2021 and 2023 are based on the 2016 emissions modeling platform. *See* ''2005 thru 2019.2021_2023_2028 Annual State Tier1 Emissions_v3'' and the Emissions Modeling TSD in the docket for this proposed action.

[19] Note that the methods used for calculating emissions for certain tier 1 categories in the NEI changed over time between 2005 and 2019 and certain methods used for the NEI differ from the methods used for the 2016 Emissions Platform. These methodological differences may result in some year-to-year inconsistencies in the emissions trends and the projected emissions trends.

[20] EPA notes that for North Carolina, the projected VOC emissions are greater than historical emissions in recent years according to NEI data. However, EPA also notes that NOx emissions are the primary contributor to regional ozone formation in ozone transport, and for North Carolina, NOx emissions are projected to continue to decline. As a result of these NOx emissions reductions, North Carolina is projected to contribute below the one percent threshold in 2021 to projected nonattainment and maintenance receptors and is projected to continue to contribute below one percent in 2023 and 2028, despite the greater projected VOC emissions. Projected ozone design values and contributions data for 2021, 2023, and 2028 can be found in the file ''Ozone Design Values And Contributions Revised CSAPR Update.xlsx'' in the docket for this action.

As presented below in Table 3, onroad and nonroad mobile source emissions collectively (*i.e.,* mobile source emissions) comprise a large portion of these states' total anthropogenic NO_X and VOC (*i.e.,* 67 percent of the state total NO_X and 36 percent to state total VOC for Florida; 61 percent of the state total NO_X and 30 percent to state total VOC for Georgia; 57 percent of the state total NO_X and 31 percent to state total VOC for North Carolina; and 57 percent of the state total NO_X and 31 percent to state total VOC for South Carolina).

TABLE 3—ANNUAL EMISSIONS OF NO_X AND VOC FROM ONROAD AND NONROAD MOBILE SOURCES IN FLORIDA, GEORGIA, NORTH CAROLINA, AND SOUTH CAROLINA

[Tons per year]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	Projected 2021	Projected 2023
FL NO_X	468,496	451,186	433,876	416,565	373,961	304,708	299,476	271,122	242,768	184,676	165,897

[16] *See* data file titled *Ozone Design Values and Contributions Revised CSAPR Update.xlsx* in the docket for this SNPRM.

[17] *See* 81 FR 74504, 74513–14.

TABLE 3—ANNUAL EMISSIONS OF NO_X AND VOC FROM ONROAD AND NONROAD MOBILE SOURCES IN FLORIDA, GEORGIA, NORTH CAROLINA, AND SOUTH CAROLINA—Continued

[Tons per year]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	Projected 2021	Projected 2023
FL VOC	351,631	325,059	298,486	271,914	255,262	222,173	202,502	190,278	178,054	155,760	145,133
GA NO_X	297,838	276,697	255,555	234,413	225,072	205,747	199,437	180,291	161,144	122,097	108,363
GA VOC	171,049	157,722	144,394	131,067	134,296	115,940	108,633	99,471	90,309	72,285	67,187
NC NO_X	272,542	253,619	234,697	215,775	197,948	165,162	157,428	145,004	132,580	107,114	95,139
NC VOC	176,370	162,257	148,144	134,032	124,615	104,938	99,959	96,950	93,940	88,486	81,551
SC NO_X	144,953	137,401	129,850	122,298	111,751	111,167	104,989	95,687	86,385	68,365	61,243
SC VOC	86,955	82,634	78,312	73,991	70,288	66,464	64,202	59,603	55,005	46,372	42,789

[21] Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards (79 FR 23414, April 28, 2014); Control of Hazardous Air Pollutants From Mobile Sources (72 FR 8428, February 26, 2007); Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (66 FR 5002, January 18, 2001); Control of Emissions of Air Pollution From Nonroad Diesel Engines and Fuel (69 FR 38957, June 29, 2004); Control of Emissions of Air Pollution From Locomotive Engines and Marine Compression-Ignition Engines Less Than 30 Liters per Cylinder (73 FR 25098, May 6, 2008); Control of Emissions From Nonroad Spark-Ignition Engines and Equipment (73 FR 59034, October 8, 2008); Control of Emissions From New Marine Compression-Ignition Engines at or Above 30 Liters per Cylinder (75 FR 22895, April 30, 2010); Control of Air Pollution From Aircraft and Aircraft Engines, Emission Standards and Test Procedures (77 FR 36342, June 18, 2012).

The large decrease in NO_X emissions between 2016 emissions and projected 2023 emissions in Florida, Georgia, North Carolina, and South Carolina are primarily driven by reductions in emissions from onroad and nonroad mobile sources. As shown by the mobile source emissions trends in Table 3, EPA projects that both VOC and NO_X emissions will continue declining out to 2023 as newer vehicles and engines that are subject to the most recent, stringent mobile source standards replace older vehicles and engines.[21]

In summary, based on the projected downward trend in projected future emissions trends, in combination with the historical decline in actual emissions, there is no evidence to suggest that the overall emissions trend demonstrated in Table 2 would suddenly reverse or spike in 2021 compared to historical emissions levels or those projected for 2023. Further, there is no evidence that the projected ozone precursor emissions trends beyond 2021would not continue to show a decline in emissions.[22]

This downward trend in emissions in Florida, Georgia, North Carolina, and South Carolina adds support to the air quality analysis presented above and indicates that the contributions from emissions from sources in Florida, Georgia, North Carolina, and South Carolina to ozone receptors in downwind states will continue to decline and remain below one percent of the 2015 8-hour ozone NAAQS. Thus, based on this supplemental analysis, EPA continues to propose to conclude that the air quality and emissions analyses indicate that emissions from Florida, Georgia, North Carolina, and South Carolina will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state.

III. Supplemental Proposed Actions

In its December 30, 2019, NPRM, EPA originally proposed to find that emissions from sources in Florida, Georgia, North Carolina, and South Carolina will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state based on information for the analytic year 2023, consistent with the 2024 Moderate area attainment date. Thus, EPA proposed to approve the interstate transport portions of the infrastructure SIP submissions from Florida, Georgia, North Carolina, and South Carolina as meeting CAA section 110(a)(2)(D)(i)(I) requirements for the 2015 8-hour ozone NAAQS.[23] *See* 84 FR 71854.

The analysis presented in this notice provides a new primary basis for approval to supplement EPA's proposed finding in the December 30, 2019, NPRM. EPA continues to propose to find that emissions from sources in Florida, Georgia, North Carolina, and South Carolina will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state. Thus, EPA continues to propose to approve the interstate transport portions of the infrastructure SIP submissions from Florida, Georgia, North Carolina, and South Carolina as meeting CAA section 110(a)(2)(D)(i)(I) requirements for the 2015 8-hour ozone NAAQS.

IV. Statutory and Executive Order Reviews

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

- Are not significant regulatory actions 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);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National

[22] EPA's normal practice is to only include changes in emissions from final regulatory actions in its modeling because, until such rules are finalized, any potential changes in NO_X or VOC emissions are speculative.

[23] As mentioned in Section I above, EPA is deferring action on Alabama's and Tennessee's Good Neighbor infrastructure SIP submittals at this time.

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

For South Carolina, because this proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this proposed action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), ''all state and local environmental laws and regulations apply to the Catawba Indian Nation and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' The Catawba Indian Nation also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 12, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

[FR Doc. 2021–15097 Filed 7–16–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[EPA–HQ–OW–2018–0594; FRL–7251–01–OW]

Drinking Water Contaminant Candidate List 5—Draft

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for comments.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is publishing a draft list of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations for public review and comment. These contaminants are known or anticipated to occur in public water systems and may require regulation under the Safe Drinking Water Act (SDWA). This draft list is the Fifth Contaminant Candidate List (CCL 5) published by the agency since the SDWA amendments of 1996. The Draft CCL 5 includes 66 chemicals, 3 chemical groups (per- and polyfluoroalkyl substances (PFAS), cyanotoxins, and disinfection byproducts) and 12 microbial contaminants. EPA seeks comment on the Draft CCL 5 and on improvements implemented in the CCL 5 process for consideration in developing future CCLs.

DATES: Comments must be received on or before September 17, 2021.

ADDRESSES: You may send comments, identified by Docket ID Number EPA–HQ–OW–2018–0594, by any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov (our preferred method). Follow the online instructions for submitting comments.

Mail: U.S. Environmental Protection Agency, EPA Docket Center, Water Docket, Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery/Courier (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OW–2018–0594 for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be delay in processing mail. Hand deliveries and couriers may be received by scheduled appointment only. For further information of EPA Docket Center Services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For information on chemical contaminants contact Kesha Forrest, Office of Ground Water and Drinking Water, Standards and Risk Management Division, at (202) 564–3632 or email *forrest.kesha@epa.gov.* For information on microbial contaminants contact Nicole Tucker, Office of Ground Water and Drinking Water, Standards and Risk Management Division, at (202) 564–1946 or email *tucker.nicole@epa.gov.*

For more information visit *https://www.epa.gov/ccl.*

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I. General Information

A. Does this action impose any requirements on public water systems?

The Draft Contaminant Candidate List 5 (CCL 5) and the Final CCL 5, when published, will not impose any requirements on regulated entities.

B. Public Participation

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2018–0594, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section of this document. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center Staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* as there may be a delay in processing mail. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

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

C. What should I consider as I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

Explain your views as clearly as possible.

Describe any assumptions that you used.

Provide any technical information and/or data you used that support your views.

Provide full references for any peer reviewed publication you used that support your views.

Provide specific examples to illustrate your concerns.

Offer alternatives.

Make sure to submit your comments by the comment period deadline. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Purpose, Background, and Statutory Requirements of This Action

This section briefly summarizes the purpose of this action, the statutory requirements, previous activities related to the CCL and the approach used to develop the Draft CCL 5.

A. What is the purpose of this action?

The purpose of this action is to present EPA's Draft CCL 5 and the rationale for the selection process used to make the list. This Draft CCL 5, when finalized, is subsequently used to make regulatory determinations on whether to regulate at least five contaminants from the CCL with national primary drinking water regulations (NPDWRs) under the Safe Drinking Water Act (SDWA), section 1412(b)(1)(B)(ii). This action only addresses the Draft CCL 5. The regulatory determinations process for contaminants on the CCL is a separate agency action. EPA requests comment on the Draft CCL 5 and on improvements implemented in the CCL 5 process for consideration in developing future CCLs.

B. Background and Statutory Requirements for CCL, Regulatory Determinations and Unregulated Contaminant Monitoring

1. Contaminant Candidate List

SDWA section 1412(b)(1)(B)(i), as amended in 1996, requires EPA to publish the CCL every five years. The SDWA specifies that the list must include contaminants that are not subject to any proposed or promulgated NPDWRs, are known or anticipated to occur in public water systems (PWSs), and may require regulation under the SDWA. The unregulated contaminants considered for listing shall include, but not be limited to, hazardous substances identified in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA). The SDWA directs EPA to consider the health effects and occurrence information for unregulated contaminants to identify those contaminants that present the greatest public health concern related to exposure from drinking water. The statute further directs EPA to take into consideration the effect of contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, and individuals with a history of serious illness or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population. EPA considers age-related subgroups as ''lifestages'' in reference to a distinguishable time frame in an individual's life characterized by unique and relatively stable behavioral and/or physiological characteristics that are associated with development and growth. Thus, childhood is viewed as a sequence of stages, from conception through fetal development, infancy and adolescence (see *http://www2.epa.gov/children/early-life-stages*).

2. Regulatory Determinations

SDWA section 1412(b)(1)(B)(ii), as amended in 1996, requires EPA, at five-year intervals, to make determinations of whether or not to regulate no fewer than five contaminants from the CCL. The 1996 SDWA Amendments specify three criteria to determine whether a contaminant may require regulation:

The contaminant may have an adverse effect on the health of persons;

The contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and

In the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

If, after considering public comment on a preliminary determination, EPA makes a determination to regulate a contaminant, the agency will initiate the process to propose an NPDWR.[1] In that case, the statutory time frame provides for EPA proposal of a regulation within 24 months and action on a final regulation within 18 months of proposal.

3. Unregulated Contaminant Monitoring Rule

SDWA section 1445(a)(2), as amended in 1996, requires that once every five years, beginning in 1999, EPA issues a new list of no more than 30 unregulated contaminants to be monitored in drinking water by PWSs. Monitoring is required by all PWSs serving more than 10,000 persons. The SDWA, as amended by America's Water Infrastructure Act of 2018, expands the requirements of the program and specifies that, subject to availability of appropriations and laboratory capacity, the UCMR program shall include all systems serving between 3,300 and 10,000 persons and a nationally representative sample of PWSs serving fewer than 3,300 persons. The program would continue to require monitoring by PWSs serving more than 10,000 persons. The SDWA also requires EPA to enter the monitoring data into the publicly available National Contaminant Occurrence Database (NCOD). This national occurrence data is used to inform regulatory decisions for emerging contaminants in drinking water. Since the development of the UCMR program, EPA has issued four UCMRs. The UCMR 1 was published in the **Federal Register** on September 17, 1999 (64 FR 50556, USEPA, 1999), and required monitoring for 26 contaminants from 2001 to 2005. The UCMR 2 was published in the **Federal Register** on January 4, 2007 (72 FR 368, USEPA, 2007), and required monitoring for 25 contaminants from 2008 to 2010. The UCMR 3 was published in the **Federal Register** on May 2, 2012 (77 FR 26072, USEPA, 2012a), and required monitoring for 30 contaminants: 28 chemicals and two viruses from 2013 to 2015. The UCMR 4 was published in the **Federal Register** on December 20, 2016 (81 FR 92666, USEPA, 2016a), and required monitoring for 30 contaminants from 2018 to 2020. Seventeen of the contaminants being monitored under the UCMR 4 were included on the CCL 4 and 13 chemicals or chemical groups monitored under the UCMR 4 are included on the Draft CCL 5. EPA published the UCMR 5 proposal in the **Federal Register** on March 11, 2021 (86 FR 13846, USEPA, 2021a). The proposed UCMR 5 would require monitoring for 29 per- and polyfluoroalkyl substances (PFAS) and lithium in drinking water from 2023 to 2025. The Draft CCL 5 includes all of the contaminants that are proposed for monitoring on the UCMR 5.

C. Interrelationship of the CCL, Regulatory Determinations, and Unregulated Contaminant Monitoring

The CCL is the first step in the SDWA regulatory framework for screening and evaluating the subset of contaminants that may require future regulation. The CCL serves as the initial screening of potential contaminants to consider for regulatory determinations. However, inclusion on the CCL does not mean that any particular contaminant will necessarily be regulated in the future.

The UCMR provides a mechanism to obtain nationally representative occurrence data for contaminants in drinking water. Historically, most unregulated contaminants chosen by EPA for monitoring have been selected from the CCL. When selecting contaminants for monitoring under the UCMR, EPA considers the availability of health effects data and the need for national occurrence data for contaminants, as well as analytical method availability, availability of analytical standards, sampling costs, and laboratory capacity to support a nationwide monitoring program. The contaminant occurrence data collected under the UCMR serves to better inform future CCLs and regulatory determinations. Contaminants on the CCL are evaluated based on health effects and occurrence information and those contaminants with sufficient information to make a regulatory determination are then evaluated based on the three statutory criteria in SDWA section 1412(b)(1), to determine whether a regulation is required (called a positive determination) or not required (called a negative determination). Under the SDWA, EPA must make regulatory determinations for at least five contaminants listed on the CCL every five years. For those contaminants without sufficient information to allow EPA to make a regulatory determination, the agency encourages research to provide the information needed to fill the data gaps to determine whether to regulate the contaminant.

This action addresses only the CCL 5 and not the UCMR or regulatory determinations.

D. Summary of Previous CCLs and Regulatory Determinations

1. The First Contaminant Candidate List

The first CCL (CCL 1) was published on March 2, 1998 (63 FR 10274, USEPA, 1998). The CCL 1 was developed based on recommendations by the National Drinking Water Advisory Council (NDWAC) and reviewed by technical experts. It contained 50 chemicals and 10 microbial contaminants/groups.

[1] An NPDWR is a legally enforceable standard that applies to public water systems. An NPDWR sets a legal limit (called a maximum contaminant level or MCL) or specifies a certain treatment technique for public water systems for a specific contaminant or group of contaminants. The MCL is the highest level of a contaminant that is allowed in drinking water and is set as close to the MCLG as feasible, using the best available treatment technology and taking cost into consideration.

2. The Regulatory Determinations for CCL 1 Contaminants

EPA published its final regulatory determinations for a subset of contaminants listed on the CCL 1 on July 18, 2003 (68 FR 42898, USEPA, 2003). EPA identified 9 contaminants from the 60 contaminants listed on the CCL 1 that had sufficient data and information available to make regulatory determinations. The nine contaminants were Acanthamoeba, aldrin, dieldrin, hexachlorobutadiene, manganese, metribuzin, naphthalene, sodium, and sulfate. EPA determined that no regulatory action was appropriate or necessary for any of the nine contaminants at that time. EPA subsequently issued guidance on Acanthamoeba and Health Advisories for manganese, sodium, and sulfate.

3. The Second Contaminant Candidate List

EPA published the Final CCL 2 on February 24, 2005 (70 FR 9071, USEPA, 2005). EPA carried forward the 51 remaining chemical and microbial contaminants from the CCL 1 (that did not have regulatory determinations) to the CCL 2.

4. The Regulatory Determinations for CCL 2 Contaminants

EPA published its final regulatory determinations for a subset of contaminants listed on the CCL 2 on July 30, 2008 (73 FR 44251, USEPA, 2008). EPA identified 11 contaminants from the 51 contaminants listed on the CCL 2 that had sufficient data and information available to make regulatory determinations. The 11 contaminants were boron, the dacthal mono- and di-acid degradates, 1,1-dichloro-2,2-bis (p-chlorophenyl) ethylene (DDE), 1,3-dichloropropene, 2,4-dinitrotoluene, 2,6-dinitrotoluene, s-ethyl propylthiocarbamate (EPTC), fonofos, terbacil, and 1,1,2,2-tetrachloroethane. EPA made a final determination that no regulatory action was appropriate or necessary for any of the 11 contaminants. New or updated Health Advisories were subsequently issued for: Boron, the dacthal degradates, 2,4-dinitrotoluene, 2,6-dinitrotoluene, and 1,1,2,2-tetrachloroethane.

5. The Third Contaminant Candidate List

EPA published the Final CCL 3 on October 8, 2009 (74 FR 51850, USEPA, 2009). In developing the CCL 3, EPA implemented an improved, stepwise process which built on the previous CCL process and was based on expert input and recommendations from the National Academy of Sciences' National Research Council (NRC), the National Drinking Water Advisory Council (NDWAC), and the Science Advisory Board (SAB). The CCL 3 contained 104 chemicals or chemical groups and 12 microbial contaminants.

6. The Regulatory Determinations for CCL 3 Contaminants

On February 11, 2011, EPA published in the **Federal Register** (76 FR 7762, USEPA, 2011) a determination that perchlorate (a CCL 3 contaminant) met the criteria for regulating a contaminant under the SDWA based upon the information available at that time. On January 4, 2016, EPA published in the **Federal Register** (81 FR 13, USEPA, 2016b) final determinations not to regulate four additional CCL 3 contaminants—dimethoate, 1,3-dinitrobenzene, terbufos and terbufos sulfone.

EPA published a proposed rulemaking for perchlorate in the **Federal Register** on June 26, 2019 (85 FR 43990, USEPA, 2019a), and sought public input on regulatory alternatives for perchlorate, including withdrawal of the previous regulatory determination. Based on the evaluation of public comments, and review of the updated scientific data, EPA withdrew the 2011 regulatory determination and made a final determination not to regulate perchlorate on July 21, 2020 (85 FR 43990, USEPA, 2020). EPA is reviewing this final determination in accordance with President Biden's Executive Order No. 13990 (86 FR 7037, Executive Office of the President, 2021).

7. The Fourth Contaminant Candidate List

EPA published the Final CCL 4 in the **Federal Register** on November 17, 2016 (81 FR 81099, USEPA, 2016c). The Final CCL 4 contained 97 chemicals or chemical groups and 12 microbial contaminants. All contaminants listed on the Final CCL 4 were carried forward from CCL 3, except for manganese and nonylphenol, which were nominated by the public to be included on the CCL 4. For information about publicly nominated contaminants for the CCL 5, see Section III.C.1 of this document.

8. The Regulatory Determinations for CCL 4 Contaminants

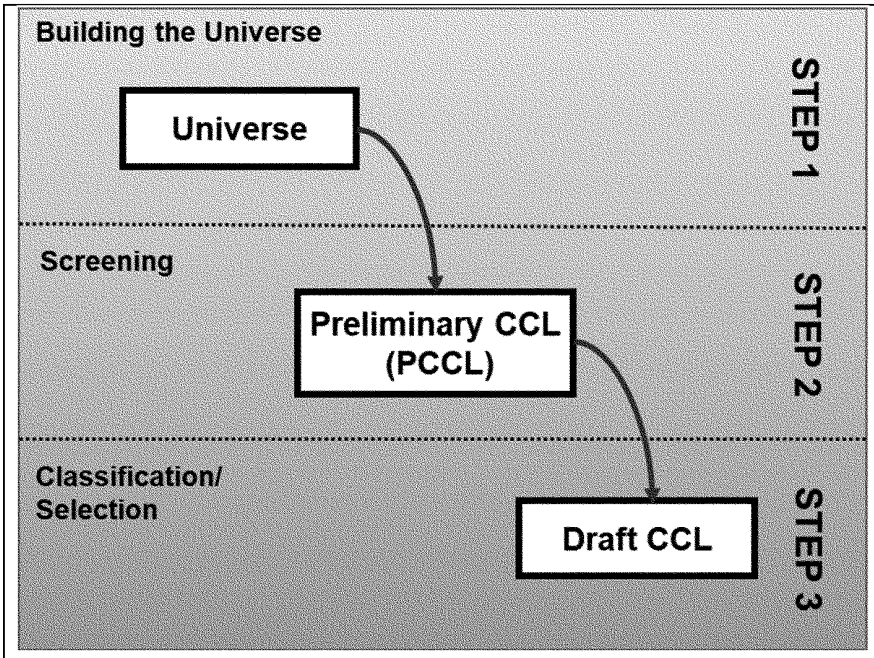
On March 3, 2021, EPA published final regulatory determinations for eight contaminants on the CCL 4 (86 FR 12272, USEPA, 2021b). EPA made final determinations to regulate perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) in drinking water and to not regulate six contaminants 1,1-dichloroethane, acetochlor, methyl bromide (bromomethane), metolachlor, nitrobenzene, and 1,3,5-Trinitro-1,3,5-triazinane (RDX).

E. Summary of the Approach Used To Identify Contaminants for the Draft CCL 5

In developing the Draft CCL 5, EPA followed the stepwise process used in developing the CCL 3 and CCL 4, which was based on expert input and recommendations from the SAB, NRC and NDWAC. Note that EPA used an abbreviated process for the CCL 4 by carrying forward the CCL 3 contaminants (81 FR 81099, USEPA, 2016c). In each cycle of the CCL, EPA attempts to improve the CCL development process in response to comments from the SAB and the public. Therefore, in developing the Draft CCL 5, EPA implemented improvements to the CCL process to better identify, screen, and classify potential drinking water contaminants. EPA's approach utilizes the best available data to characterize the occurrence and adverse health risks a chemical may pose from potential drinking water exposure.

Exhibit 1 illustrates a generalized 3-step process EPA applied to both chemical and microbial contaminants for the Draft CCL 5. The agency began with a large Universe of contaminants, screened it down to a Preliminary CCL 5, then finally selected the Draft CCL 5. The specific execution of particular steps differed in detail for the chemical and microbial contaminants. Each step of the Draft CCL 5 process and associated number of chemical and microbial contaminants are described in Section III of this document.

Exhibit 1—Generalized Draft CCL 5 Development Process and Contaminant Counts



	Number of Chemical Contaminants	Number of Microbial Contaminants
STEP 1	~22,000	1,435
STEP 2	275	35
STEP 3	66 + 3 chemical groups	12

1. Chemical Contaminants

EPA followed 3 three-step process illustrated in Exhibit 1 to identify chemicals for inclusion on the Draft CCL 5. These steps included:

Step 1. Building a broad universe of potential drinking water contaminants (called the CCL 5 Chemical Universe). EPA evaluated 134 data sources and identified 43 that were related to potential drinking water chemical contaminants and met established CCL assessment factors. From these data sources, EPA identified and extracted occurrence and health effects data for the 21,894 chemicals that form the CCL 5 Chemical Universe.

Step 2. Screening the CCL 5 Chemical Universe to identify a list of chemicals that should be further evaluated (called the Preliminary CCL 5 (PCCL 5)). EPA established and applied a data-driven screening points system to identify and prioritize a subset of chemicals with the greatest potential for public health concern. The agency also incorporated publicly nominated chemicals to the PCCL 5.

Step 3. Classifying PCCL 5 chemicals to select the Draft CCL 5 chemicals. EPA compiled occurrence and health effects information for use by two evaluation teams of EPA scientists. The evaluation teams reviewed this information for each chemical before reaching a group decision on whether to list a chemical on the Draft CCL 5.

A more detailed description of the processes used to develop the Draft CCL 5 of chemicals using these steps can be found in the Technical Support Document for the Draft Fifth Contaminant Candidate List (CCL 5)—Chemical Contaminants (USEPA, 2021c).

2. Microbial Contaminants

EPA followed the 3-step process illustrated in Exhibit 1 to identify microbes for inclusion on the Draft CCL 5. For microbial contaminants, these steps included:

Step 1. Building a broad universe of all microbes that may cause human disease.

Step 2. Screening that universe of microbial contaminants to produce a PCCL 5.

Step 3. Selecting the Draft CCL 5 microbial list by ranking the PCCL 5 contaminants based on occurrence in drinking water (including waterborne disease outbreaks) and human health effects.

This approach is similar to that used by EPA for the CCL 3, with updates made to the microbial screening process in response to SAB and stakeholder comments. EPA re-examined all 12 microbial exclusionary screening criteria used in previous CCLs and modified one criterion for the CCL 5. More details on the screening process are presented in the Technical Support Document for the Draft Fifth Candidate List (CCL 5)—Microbial Contaminants (USEPA, 2021d). (Note, referred to as the Microbial Technical Support Document thereafter.)

F. What is included on the Draft CCL 5?

The Draft CCL 5 includes 81 contaminants or groups (Exhibits 2a, 2b, and 2c). The list is comprised of 69 chemicals or chemical groups and 12 microbes. The 69 chemicals or chemical groups include 66 chemicals recommended for listing following an improved process to evaluate the PCCL, one group of cyanotoxins, one group of disinfection byproducts (DBPs), and one group of PFAS chemicals. The 12 microbes include 8 bacteria, 3 viruses, and 1 protozoa recommended for listing based on the scores for waterborne disease outbreaks, occurrence, health effects, and recommendations from various experts.

EXHIBIT 2a—CHEMICAL CONTAMINANTS ON THE DRAFT CCL 5

Chemical name	CASRN [1]	DTXSID [2]
1,2,3-Trichloropropane	96–18–4	DTXSID9021390
1,4-Dioxane	123–91–1	DTXSID4020533
17-alpha ethynyl estradiol	57–63–6	DTXSID5020576
2,4-Dinitrophenol	51–28–5	DTXSID0020523
2-Aminotoluene	95–53–4	DTXSID1026164
2-Hydroxyatrazine	2163–68–0	DTXSID6037807
4-Nonylphenol (all isomers)	25154–52–3	DTXSID3021857
6-Chloro-1,3,5-triazine-2,4-diamine	3397–62–4	DTXSID1037806
Acephate	30560–19–1	DTXSID8023846
Acrolein	107–02–8	DTXSID5020023
alpha-Hexachlorocyclohexane (alpha-HCH)	319–84–6	DTXSID2020684
Anthraquinone	84–65–1	DTXSID3020095
Bensulide	741–58–2	DTXSID9032329
Bisphenol A	80–05–7	DTXSID7020182
Boron	7440–42–8	DTXSID3023922
Bromoxynil	1689–84–5	DTXSID3022162
Carbaryl	63–25–2	DTXSID9020247
Carbendazim (MBC)	10605–21–7	DTXSID4024729
Chlordecone (Kepone)	143–50–0	DTXSID1020770
Chlorpyrifos	2921–88–2	DTXSID4020458
Cobalt	7440–48–4	DTXSID1031040
Cyanotoxins [3]	Multiple	Multiple
Deethylatrazine	6190–65–4	DTXSID5037494
Desisopropyl atrazine	1007–28–9	DTXSID0037495
Desvenlafaxine	93413–62–8	DTXSID40869118
Diazinon	333–41–5	DTXSID9020407
Dicrotophos	141–66–2	DTXSID9023914
Dieldrin	60–57–1	DTXSID9020453
Dimethoate	60–51–5	DTXSID7020479
Disinfection byproducts (DBPs) [4]	Multiple	Multiple
Diuron	330–54–1	DTXSID0020446
Ethalfluralin	55283–68–6	DTXSID8032386
Ethoprop	13194–48–4	DTXSID4032611
Fipronil	120068–37–3	DTXSID4034609
Fluconazole	86386–73–4	DTXSID3020627
Flufenacet	142459–58–3	DTXSID2032552
Fluometuron	2164–17–2	DTXSID8020628
Iprodione	36734–19–7	DTXSID3024154
Lithium	7439–93–2	DTXSID5036761
Malathion	121–75–5	DTXSID4020791
Manganese	7439–96–5	DTXSID2024169
Methomyl	16752–77–5	DTXSID1022267
Methyl tert-butyl ether (MTBE)	1634–04–4	DTXSID3020833
Methylmercury	22967–92–6	DTXSID9024198
Molybdenum	7439–98–7	DTXSID1024207
Norflurazon	27314–13–2	DTXSID8024234
Oxyfluorfen	42874–03–3	DTXSID7024241
Per- and polyfluoroalkyl substances (PFAS) [5]	Multiple	Multiple
Permethrin	52645–53–1	DTXSID8022292
Phorate	298–02–2	DTXSID4032459
Phosmet	732–11–6	DTXSID5024261
Phostebupirim	96182–53–5	DTXSID1032482
Profenofos	41198–08–7	DTXSID3032464
Propachlor	1918–16–7	DTXSID4024274
Propanil	709–98–8	DTXSID8022111
Propargite	2312–35–8	DTXSID4024276
Propazine	139–40–2	DTXSID3021196
Propoxur	114–26–1	DTXSID7021948
Quinoline	91–22–5	DTXSID1021798
Tebuconazole	107534–96–3	DTXSID9032113
Terbufos	13071–79–9	DTXSID2022254
Thiamethoxam	153719–23–4	DTXSID2034962
Tri-allate	2303–17–5	DTXSID5024344
Tribufos	78–48–8	DTXSID1024174
Tributyl phosphate	126–73–8	DTXSID3021986
Trimethylbenzene (1,2,4-)	95–63–6	DTXSID6021402
Tris(2-chloroethyl) phosphate (TCEP)	115–96–8	DTXSID5021411
Tungsten	7440–33–7	DTXSID8052481
Vanadium	7440–62–2	DTXSID2040282

[1] Chemical Abstracts Service Registry Number (CASRN) is a unique identifier assigned by the Chemical Abstracts Service (a division of the American Chemical Society) to every chemical substance (organic and inorganic compounds, polymers, elements, nuclear particles, etc.) in the open scientific literature. It contains up to 10 digits, seperated by hyphens into three parts.

[2] Distributed Structure Searchable Toxicity Substance Identifiers (DTXSID) is a unique substance identifier used in EPA's CompTox Chemicals database, where a substance can be any single chemical, mixture or polymer.

[3] Toxins naturally produced and released by some species of cyanobacteria (previously known as ''blue-green algae''). The group of cyanotoxins includes, but is not limited to: Anatoxin-a, cylindrospermopsin, microcystins, and saxitoxin.

[4] This group includes 23 unregulated DBPs as shown in Exhibit 2b.

[5] This group is inclusive of any PFAS (except for PFOA and PFOS). For the purposes of this document, the structural definition of PFAS includes per- and polyfluorinated substances that structurally contain the unit R-(CF2)-C(F)(R′)R″. Both the CF2 and CF moieties are saturated carbons and none of the R groups (R, R′ or R″) can be hydrogen (USEPA, 2021f).

EXHIBIT 2b—UNREGULATED DBPS IN THE DBP GROUP ON THE DRAFT CCL 5

Chemical name	CASRN	DTXSID
Haloacetic Acids:		
Bromochloroacetic acid (BCAA)	5589–96–8	DTXSID4024642
Bromodichloroacetic acid (BDCAA)	71133–14–7	DTXSID4024644
Dibromochloroacetic acid (DBCAA)	631–64–1	DTXSID3031151
Tribromoacetic acid (TBAA)	75–96–7	DTXSID6021668
Haloacetonitriles:		
Dichloroacetonitrile (DCAN)	3018–12–0	DTXSID3021562
Dibromoacetonitrile (DBAN)	3252–43–5	DTXSID3024940
Halonitromethanes:		
Bromodichloronitromethane (BDCNM)	918–01–4	DTXSID4021509
Chloropicrin (trichloronitromethane, TCNM)	76–96–2	DTXSID0020315
Dibromochloronitromethane (DBCNM)	1184–89–0	DTXSID00152114
Iodinated Trihalomethanes:		
Bromochloroiodomethane (BCIM)	34970–00–8	DTXSID4021503
Bromodiiodomethane (BDIM)	557–95–9	DTXSID70204235
Chlorodiiodomethane (CDIM)	638–73–3	DTXSID20213251
Dibromoiodomethane (DBIM)	557–68–6	DTXSID60208040
Dichloroiodomethane (DCIM)	594–04–7	DTXSID7021570
Iodoform (triiodomethane, TIM)	75–47–8	DTXSID4020743
Nitrosamines:		
Nitrosodibutylamine (NDBA)	924–16–3	DTXSID2021026
N-Nitrosodiethylamine (NDEA)	55–18–5	DTXSID2021028
N-Nitrosodimethylamine (NDMA)	62–75–9	DTXSID7021029
N-Nitrosodi-n-propylamine (NDPA)	621–64–7	DTXSID6021032
N-Nitrosodiphenylamine (NDPhA)	86–30–6	DTXSID6021030
Nitrosopyrrolidine (NPYR)	930–55–2	DTXSID8021062
Others:		
Chlorate	14866–68–3	DTXSID3073137
Formaldehyde	50–00–0	DTXSID7020637

EXHIBIT 2c—MICROBIAL CONTAMINANTS ON THE DRAFT CCL 5

Microbial name	Microbial class
Adenovirus	Virus.
Caliciviruses	Virus.
Campylobacter jejuni	Bacteria.
Escherichia coli (O157)	Bacteria.
Enteroviruses	Virus.
Helicobacter pylori	Bacteria.
Legionella pneumophila	Bacteria.
Mycobacterium abscessus	Bacteria.
Mycobacterium avium	Bacteria.
Naegleria fowleri	Protozoa.
Pseudomonas aeruginosa	Bacteria.
Shigella sonnei	Bacteria.

III. Developing the Draft CCL 5

A. Approach Used To Identify Chemical Candidates for the Draft CCL 5

The SDWA directs EPA to consider health effects and occurrence information on unregulated contaminants to identify those that present the greatest public health concern related to exposure from drinking water. EPA gathered this information into a data directory that supports the evaluation of contaminants over the three steps of the CCL 5 development process, as outlined in Section II.E.1 of this document.

1. Building the Chemical Universe

The goal of the first step of the CCL 5 development process for chemical candidates is to identify a broad universe of potential drinking water contaminants. EPA began the CCL 5 development process by compiling data sources to identify chemicals that would form a broad CCL 5 Chemical Universe (*e.g.,* a list of contaminants identified through health and occurrence data sources that are relevant, complete, retrievable, and not redundant). EPA compiled data sources identified from the CCL 3 and the CCL 4, along with data sources recommended by the CCL 5 EPA workgroup and subject matter experts. Information on how EPA addressed data sources provided through the public nomination process is described in Section III.C.1 of this document. As a result of this effort, EPA identified 134 potential data sources and further assessed their potential use for the CCL 5 development process. EPA accessed each potential data source online and evaluated them using the following assessment factors:

Relevance: The data source contains information on demonstrated or potential health effects, occurrence, or potential occurrence of contaminants using surrogate information (*e.g.,* environmental release, environmental fate and transport properties);

Completeness: The data source either (a) has been peer-reviewed, or (b) provides a description of the data, information on how the data were obtained, and contact information regarding the data source;

Redundancy: The data source does not contain information identical to other more comprehensive data sources also being considered; and,

Retrievability: The data are formatted for automated retrieval (*e.g.,* data are stored in a tabular format) and publicly accessible.

Out of the 134 potential data sources, 43 met all four assessment factors and were therefore considered ''primary data sources'' that were used to build the CCL 5 Chemical Universe. Data sources that met the first three assessment

factors but were not retrievable were set aside as potential supplemental sources, some of which were used as part of the CCL 5 classification process, as discussed further in this section as well as Sections III.A.4 and III.C of this document. More information on how data sources were assessed and extracted is provided in Sections 2.2 and 2.3, respectively, of the Chemical Technical Support Document (USEPA, 2021c).

EPA downloaded data from the 43 primary data sources and categorized them as sources of health effects (Exhibit 3) or occurrence (Exhibit 4) data. In total, 21,894 chemicals were identified from the 43 primary data sources.

Out of the 43 primary data sources, EPA identified 17 sources of health effects data that met the assessment factors of relevance, completeness, redundancy, and retrievability. One additional health effects data source, the Hazardous Substances Data Bank (HSDB), did not meet the retrievability factor but was designated as a primary data source. The HSDB is a data rich source, and the only source of Lethal Dose, 50% (LD50s) for the CCL 5 development process.

Therefore, additional effort was taken to extract this data, as was done with the CCL 3 development process (USEPA, 2009a). These 18 data sources, listed in Exhibit 3, include both qualitative and quantitative data.

EXHIBIT 3—CCL 5 HEALTH EFFECTS PRIMARY DATA SOURCES

Data source	Agency or author [1]
Agency for Toxic Substances and Disease Registry (ATSDR) Minimal Risk Levels (MRLs).	Centers for Disease Control and Prevention (CDC).
Cancer Potency Data Bank	National Library of Medicine, U.S. Department of Health and Human Services (HHS).
Drinking Water Standards and Health Advisory Tables	EPA.
Guidelines for Canadian Drinking Water Quality	Health Canada.
Guidelines for Drinking-Water Quality	World Health Organization (WHO).
Hazardous Substances Data Bank	National Library of Medicine, HHS.
Health-Based Screening Levels (HBSLs)	U.S. Geological Survey (USGS).
Human Health-Based Water Guidance Table	Minnesota Department of Health.
Human Health Benchmarks for Pesticides	EPA.
Integrated Risk Information System (IRIS)	EPA.
International Agency for Research on Cancer Classifications	WHO.
Maximum Recommended Daily Dose (MRDD) Database	U.S. Food and Drug Administration (FDA).
National Recommended Water Quality Criteria—Human Health Criteria	EPA.
National Toxicology Program (NTP) Cancer Classifications	HHS.
Provisional Peer-Reviewed Toxicity Values (PPRTVs)	EPA.
Screening Levels for Pharmaceuticals	FDA Drugs@FDA database, National Institutes of Health (NIH) DailyMed Database.
Toxicity Criteria Database	California Environmental Protection Agency (CalEPA) Office of Environmental Health Hazard Assessment.
Toxicity Reference Database (ToxRefDB)	EPA

[1] References for the data sources listed in Exhibit 3 are provided in Appendix N of the Chemical Technical Support Document (USEPA, 2021c).

EPA identified 25 sources of occurrence related data that met the assessment factors of relevance, completeness, redundancy, and retrievability. These data sources, listed in Exhibit 4, include both qualitative and quantitative data.

EXHIBIT 4—CCL 5 OCCURRENCE PRIMARY DATA SOURCES

Data source	Agency or author [1]
ATSDR Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Substance Priority List.	CDC.
Chemical Data Reporting (CDR) Results	EPA.
''Concentrations of prioritized pharmaceuticals in effluents from 50 large wastewater treatment plants in the US and implications for risk estimation''.	Kostich et al. 2014.
Disinfection By-product Information Collection Rule (DBP ICR)	EPA.
''Evaluating the extent of pharmaceuticals in surface waters of the United States using a National-scale Rivers and Streams Assessment survey''.	Batt et al. 2016.
''Expanded target-chemical analysis reveals extensive mixed-organic-contaminant exposure in U.S. streams''.	Bradley et al. 2017.
Federal Insecticide Fungicide, and Rodenticide Act (FIFRA) List	EPA.
''Legacy and emerging perfluoroalkyl substances are important emerging water contaminants in the Cape Fear River Watershed of North Carolina''.	Sun et al. 2016.
National Health and Nutrition Examination Survey (NHANES)	CDC.
National Inorganics and Radionuclides Survey (NIRS)	EPA.
National Water Information System (NWIS)	Water Quality Portal, USGS.
National Water-Quality Assessment (NAWQA)	Water Quality Portal, USGS.
''Nationwide reconnaissance of contaminants of emerging concern in source and treated drinking waters of the United States''.	Glassmeyer et al. 2017.
''Nationwide reconnaissance of contaminants of emerging concern in source and treated drinking waters of the United States: Pharmaceuticals''.	Furlong et al. 2017.

EXHIBIT 4—CCL 5 OCCURRENCE PRIMARY DATA SOURCES—Continued

Data source	Agency or author [1]
Pesticide Data Program	U.S. Department of Agriculture (USDA).
Pesticide Use Estimates	USGS.
''Pharmaceutical manufacturing facility discharges can substantially increase the pharmaceutical load to US wastewaters''.	Scott et al. 2018.
''Predicting variability of aquatic concentrations of human pharmaceuticals''	Kostich et al. 2010.
''Reconnaissance of mixed organic and inorganic chemicals in private and public supply tapwaters at selected residential and workplace sites in the United States''.	Bradley et al. 2018.
Surface Water Database (SURF)	California Department of Pesticide Regulation.
''Suspect screening and non-targeted analysis of drinking water using point-of-use filters''	Newton et al. 2018.
Toxics Release Inventory (TRI)	EPA.
Unregulated Contaminant Monitoring Rule (UCMR) Cycles 1–3	EPA.
UCMR Cycle 4	EPA.
Unregulated Contaminant Monitoring-State (UCM-State) Rounds 1 and 2	EPA.

[1] References for the data sources listed in Exhibit 4 are provided in Appendix N of the Chemical Technical Support Document (USEPA, 2021c).

To ensure consistency and accuracy of the data across such a large data directory with a multitude of sources, EPA utilized the Distributed Structure—Searchable Toxicity Substance Identifiers (DTXSIDs) and tools provided in EPA's CompTox Chemicals Dashboard (Williams et al., 2017). This dashboard provides easy access to results from several models developed by EPA and others that predict toxicity endpoints, physicochemical properties, and environmental fate and exposure parameters for specific chemicals, as well as tools to efficiently and accurately match chemicals with DTXSIDs. With these tools and identifiers, EPA was able to match a chemical that may have been reported differently (*i.e.,* with different names or other identifiers) across CCL 5 data sources to one DTXSID. EPA linked these identifiers with descriptors that characterize toxicological and occurrence information, referred to as ''data elements,'' to ensure that data for each chemical would be available for use in later steps of the CCL 5 development process. EPA also considered the CompTox Chemicals Dashboard as a supplemental data source, as described in Section 2.4.3 of the Chemical Technical Support Document (USEPA, 2021c).

While building the CCL 5 Chemical Universe, EPA took several steps to ensure that the chemical identifiers were accurate, and that the data elements gathered across sources were uniform and comparable, as described in Section 2.4.4 of the Chemical Technical Support Document (USEPA, 2021c). The result of the first step of the CCL 5 development process was the CCL 5 Chemical Universe that provided a starting point for screening chemicals for inclusion on the PCCL 5, as described in Section III.A.2 of this document.

At later stages in the CCL 5 development process, EPA also collected data from supplemental data sources, which, along with data from the 43 primary data sources, was used to aid in further evaluation of chemicals for listing on the Draft CCL 5. As described in Section 2.2.3 of the Chemical Technical Support Document (USEPA, 2021c), supplemental sources were used to fill data gaps as part of the CCL 5 classification step (see Section III.A.3 of this document). For example, EPA conducted literature searches to identify peer-reviewed studies that are considered supplemental data sources to aid in the evaluations of chemicals of interest (see Section III.A.3.a of this document). Supplemental data could also come from sources cited in public nominations (see Section III.C of this document). While these sources could most often not be efficiently or effectively incorporated into the screening process, they were often an important source of detail and description that supported CCL 5 listing decisions. This effort to combine data collected from primary data sources along with data from supplemental data sources resulted in the most comprehensive data compilation for universe chemicals collected for any CCL iteration to date. For more information about the specific iterative steps taken to build the CCL 5 Chemical Universe, see Chapter 2 of the Chemical Technical Support Document (USEPA, 2021c).

2. Screening Chemicals to a PCCL

The goal of the second step of the CCL 5 development process was to screen chemicals for inclusion on the PCCL 5 using the data compiled in Step 1. The PCCL 5 is comprised of the top scoring universe chemicals that were advanced for further evaluation and publicly nominated chemicals. A number of top scoring chemicals and publicly nominated chemicals were not included on the PCCL 5 because they had ongoing agency actions or did not warrant further evaluation, such as canceled pesticides as described in this section.

a. Screening the Chemical Universe

EPA developed a screening process to determine which contaminants require further consideration through the PCCL to CCL step. EPA modified the CCL 3 screening process for this CCL cycle to accommodate new data types and sources that have become available, but maintained the framework of screening chemicals to the PCCL based on their available toxicity properties and occurrence data (USEPA, 2009b). To screen chemicals for the CCL 5, EPA developed a transparent and reproducible scoring rubric and point-based screening system. This point-based screening system is an improvement over the Toxicity Categories and Occurrence Hierarchies developed for the CCL 3 (USEPA, 2009b) because it incorporates data from all the available data elements identified for use in screening rather than relying on an individual data element that indicates the highest toxicity or occurrence for a chemical.

EPA developed a scoring rubric to assign points across health effects and occurrence data elements based on (1) the relevance of the data element to drinking water exposure and (2) the relative toxicity or relative occurrence indicated by the value of a chemical's data element compared to the values of that data element for all other chemicals, as described here and in more detail in Section 3.2 of the Chemical Technical Support Document (USEPA, 2021c). EPA used this scoring rubric to assign points to health effects and occurrence data elements and calculate cumulative point scores,

called ''screening scores,'' for each chemical. EPA then used these screening scores as a tool to prioritize chemicals along with statistical models and analyses to inform the PCCL 5. The statistical models and analyses are described in Section III.A.4.d of this document and Section 4.6 of the Chemical Technical Support Document (USEPA, 2021c). During the CCL 5 development process, EPA compiled 68 different data elements that could be assigned points or used as supplementary data for individual chemicals. Of these 68 data elements, EPA assigned points to 22 data elements related to health effects and 13 data elements related to occurrence, but did not assign points to the remaining 33 data elements. Generally, EPA did not assign points to data elements if:

The data element was not available for a large number of chemicals.

The data element was not considered highly relevant to hazards associated with drinking water.

The data element required chemical-specific data manipulation (*e.g.,* unit conversions requiring chemical molecular weight) and/or was not comparable to others in the universe.

Another data element extracted from the same data source and describing the same data was assigned points.

Or, the data element was not relevant to unregulated chemicals.

Many of the data elements assigned points in CCL 5 are the same data elements that were used in the CCL 3 screening and classification processes. These data elements include health effects information such as categories of cancer classifications and toxicity values (*e.g.,* Reference Dose (RfD), No Observed Adverse Effect Level (NOAEL), Lowest Observed Adverse Effect Level (LOAEL), and Lethal Dose, 50% (LD50)), as well as occurrence information such as measures of chemical concentration and frequency of detections in drinking water, production volume, and chemical release data. There are also new data elements related to both health and occurrence endpoints that EPA included in the CCL 5 screening process that were not available in a retrievable format or not used in previous CCL cycles, including National Health and Nutrition Examination Survey (NHANES) biomonitoring data and results from EPA's ToxCast in vitro screening assays. EPA designed the CCL 5 screening process to accommodate quantitative, calculated, and descriptive types of data. A full list of the data elements assigned points for the CCL 5 screening process is described in Chapter 3 of the Chemical Technical Support Document (USEPA, 2021c).

EPA divided the CCL 5 health effects and occurrence data elements that were assigned points into five categories, referred to as ''tiers,'' based on the relevance of the data to public health concerns over drinking water exposure. Tier 1 contains data most relevant to understanding potential drinking water risk and Tier 5 contains data that provide indirect indication of potential risk associated with drinking water exposure. For example, Tier 1 health effects data elements include RfD, cancer slope factor (CSF), and chronic benchmark value, which are generally only available for chemicals that have relevant risk or hazard assessments from at least one health agency. Tier 1 occurrence data element is the screening Hazard Quotient (sHQ), a calculated data element based on the ratio of the maximum concentration of a chemical in finished drinking water (the occurrence element most applicable to drinking water risk) to the lowest (*i.e.,* most health-protective) health screening level for a chemical (see Section 3.2 of the Chemical Technical Support Document (USEPA, 2021c) for more details). The list of data elements assigned points for CCL 5 screening purposes and their corresponding tier is presented in Exhibit 5.

EXHIBIT 5—TIERS OF HEALTH AND OCCURRENCE DATA ELEMENTS ASSIGNED POINTS DURING THE CCL 5 SCREENING PROCESS

Tier	Data element
Health Effects Data Elements	
Tier 1	Reference dose (RfD), cancer slope factor (CSF), chronic benchmark.
Tier 2	Chronic no observed adverse effect level (NOAEL), chronic lowest observed adverse effect level (LOAEL).
Tier 3	Numeric cancer classification,[1] subchronic benchmark, subchronic RfD.
Tier 4	Acute benchmark, acute RfD, subchronic NOAEL, subchronic LOAEL, MRDD, mined literature for neurotoxins,[2] human neurotoxicants,[2] developmental neurotoxins,[2] developmental neurotoxins (*in vivo*),[2] androgen receptor chemicals.[2]
Tier 5	TD_{50}, LD_{50}, percent active in ToxCast assays,[2] PubMed articles.[2]
Occurrence Data Elements	
Tier 1	Screening hazard quotient.
Tier 2	National finished water detection rates.
Tier 3	National ambient water detection rates, non-national finished water detection rates.
Tier 4	Non-national ambient water detection rates.
Tier 5	Chemical release quantity, estimated pesticide application rate, chemical production volume, presence on FIFRA and CERCLA lists, NHANES blood, urine, and serum concentrations, OPERA model biodegradation half-life.[2]

[1] EPA converted categorial cancer classifications to a numeric scheme (1–3) which were assigned screening points. See Section 2.4.4 of the Chemical Technical Support Document (USEPA, 2021c) for more information.

[2] These data elements were extracted from the CompTox Chemicals Dashboard.

A more detailed discussion on the inclusion and exclusion of data elements for point assignment is included in Chapter 3 of the Chemical Technical Support Document (USEPA, 2021c).

For a specific chemical, the number of points assigned to each individual data element depends on the relative toxicity or relative occurrence indicated by the data element compared to values of that data element available for all other chemicals in the universe. Further descriptions of data element category calculations and point assignments can be found in Section 3.3.2 of the Chemical Technical Support Document (USEPA, 2021c). Altogether, a chemical can receive points for each data element in every tier. The lower tiers of information are assigned fewer points because the data elements included in these tiers are considered less relevant

to hazards associated with chemical exposure via drinking water.

EPA developed the screening points system to ensure the agency considers chemicals of emerging concern in drinking water in addition to well-studied chemicals with more robust human health and drinking water occurrence data. The point system allows a chemical with limited health effects data, but high occurrence, to be included on the PCCL 5. Similarly, a chemical with limited or no drinking water occurrence data but with health effects information potentially indicating higher toxicity could also be included in the PCCL. The screening score for a chemical is the sum of health effects and occurrence points assigned for each data element. The maximum screening score a chemical could be assigned is 14,050.

EPA identified the 250 highest scoring chemicals for inclusion in the PCCL 5 and further evaluation for listing on the Draft CCL 5. This resulted in all chemicals scoring at or above 3,320 points were advanced for further consideration for the Draft CCL 5. Because three chemicals (2,4-Dinitrophenol, Phosmet, and 4-Androstene-3,17-dione) have the same screening score of 3,320, a total of 252 chemicals were advanced for further consideration and potential inclusion on the PCCL 5 (*Note:* The 252 chemicals are referred to as the ''top 250'' in this document). EPA validated the selection of the top 250 highest scoring chemicals and the screening score framework using a statistical modeling approach. A complete description of the results of this approach can be found in Section 4.6 of the Chemical Technical Support Document (USEPA, 2021c).

b. Publicly Nominated Chemicals

EPA *added* 53 publicly nominated chemicals to the 252 highest scoring chemicals to be included on the PCCL. Publicly nominated chemicals are described further in Section III.C of this document and Section 3.6 of the Chemical Technical Support Document (USEPA, 2021c).

c. Chemicals Excluded From the PCCL

i. Regulatory Determinations

In March 2021, under the fourth Regulatory Determination process, EPA made final regulatory determinations for eight chemicals including: PFOS; PFOA; 1,1-dichloroethane; acetochlor; methyl bromide (bromomethane); metolachlor; nitrobenzene; and RDX (86 FR 12272, USEPA, 2021b). EPA also made a preliminary positive determination on strontium under the third Regulatory Determination process (79 FR 62715, USEPA, 2014). Therefore, EPA excluded these nine chemicals from the PCCL 5.

ii. Canceled Pesticides

EPA evaluated canceled pesticides and excluded those that are not persistent in the environment from the PCCL 5. The persistence and occurrence of canceled pesticides were evaluated by their biodegradation half-life, end-of-use date, and the timeframe of monitoring data in finished and/or ambient water. Canceled pesticides were assigned a persistence score based on the scale described in EPA's 2012 TSCA Work Plan Chemicals: Methods Document (USEPA, 2012b). Canceled pesticides' biodegradation half-life information was downloaded from EPA's CompTox Chemicals Dashboard. Based on half-life ranges, a persistence score of 1 to 3 was assigned to each canceled pesticide with 1 indicative of lowest persistence and 3 highest persistence. A canceled pesticide received a persistence score of 1, 2, or 3 if its half-life was less than two months, greater than or equal to two months, or greater than six months, respectively.

Additionally, end-of-use dates of canceled pesticides were compared to the dates of occurrence monitoring data in finished and/or ambient water. Only the occurrence monitoring data collected after the end-of-use dates were used to determine if a canceled pesticide had any detects and/or data spikes that would pose a public health concern. A canceled pesticide was included in the PCCL if it received a persistence score of 3 and had detects in finished or ambient water, or if it received a score of 1 or 2 but had detects in finished water. A canceled pesticide was excluded from the PCCL if it received a score of 1 or 2 and had no detects in finished water or no or few detects in ambient water.

In total, 26 canceled pesticides were assessed for persistence. Four pesticides, including dieldrin, aldrin, chlordecone (kepone), and ethion, were assigned a persistence score of 3 and showed detects in finished or ambient water; thus, they were included in the PCCL 5. Alpha-hexachlorocyclohexane, although received a persistence score of 1, was also included in the PCCL 5 because it had detects in the UCMR 4 occurrence data (collected 2018–2019). Alpha-hexachlorocyclohexane is an organochloride, which is one of the isomers of hexachlorocyclohexane, and is a byproduct of the production of the canceled insecticide lindane.

The 21 remaining pesticides were assigned a score of 2 or 1 and showed no or very few detections in finished or ambient water; and therefore were excluded from the PCCL 5. Their finished or ambient water monitoring results were consistent with the low persistence scores, indicating that these canceled pesticides are likely of low public health concern.

d. Summary of the PCCL

The resulting PCCL 5 is comprised of a total of 275 chemicals. As shown in Exhibit 6, the PCCL 5 includes 252 of the highest scoring chemicals and 53 publicly nominated chemicals, of which 30 were excluded because they had other ongoing agency actions or did not warrant further evaluation. A summary of the PCCL 5 is included in Section 3.8 of the Chemical Technical Support Document (USEPA, 2021c).

EXHIBIT 6—CHEMICAL COUNTS ON DRAFT PCCL 5 AND DRAFT CCL 5

Counting process	Number of chemicals	Total count
Highest scoring chemicals (screened from Universe)	252	275 (PCCL).
(+) Add public nominated chemicals (not screened)	53	
(−) Exclude chemicals with Regulatory Determinations	9	
(−) Exclude canceled pesticides	21	
(−) Exclude Disinfection Byproducts (listed as a chemical group instead)	23	214 (Reviewed by Evaluation Teams).
(−) Exclude cyanotoxins (listed as a chemical group instead)	7	
(−) Exclude PFAS (listed as a chemical group instead)	18	
(−) Exclude public nominated chemicals lacking occurrence Data	13	
Evaluation Teams' Listing Recommendation		66.
Draft CCL 5 Chemicals		66 and 3 groups.

3. Classification of PCCL Chemicals To Select the Draft CCL

In the third step of the CCL 5 process, chemical contaminants screened to the PCCL 5 in Step 2 passed through a classification process. Classification is the process by which the agency incorporates the knowledge and evaluation of EPA scientists, referred to as ''chemical evaluators,'' to narrow the PCCL down to a draft CCL. During this process, chemical evaluators assessed health and occurrence data on the PCCL 5 chemical contaminants and reached a consensus on whether to recommend them for listing on the Draft CCL 5.

To facilitate the classification process, EPA conducted health and occurrence literature searches to gather supplemental data for the remaining PCCL 5 chemicals. For more information, see Sections III.A.3.i and III.C.2 of this document, and Section 4.2.1.1 of the Chemical Technical Support Document (USEPA, 2021c).

Literature searches acquired supplemental health effects and/or occurrence data from qualifying studies that may not have been available in a retrievable format during the identification of the universe. The supplemental data resources encountered during the literature searches were compiled by chemical, and relevant health effects and occurrence data metrics were imported into a standardized document format, called the Contaminant Information Sheet (CIS) (USEPA, 2021e).

EPA formed two evaluation teams to review the qualifying health effects and occurrence information provided in supplemental studies and on the CISs to make consensus listing recommendations for the PCCL 5 chemicals. Each evaluation team was composed of seven chemical evaluators with professional experience and expertise in relevant technical fields, including public health, public policy, toxicology, chemistry, biology, and pesticide exposure.

The supplemental studies provided to the chemical evaluators during the review process can be found in the EPA docket at *https://www.regulations.gov* (Docket ID No. EPA–HQ–OW–2018–0594). The CISs can be viewed in the Technical Support Document for the Draft Fifth Contaminant Candidate List (CCL 5)—Contaminant Information Sheets, hereafter referred to as the CIS Technical Support Document (USEPA, 2021e).

The following sections provide a detailed explanation of the classification process broken down into individual components.

a. Supplemental Data Collection

Primary data sources play a crucial role in the entire CCL process (see Section III.A.1 of this document); however, it is often necessary to gather and extract data from supplemental sources to aid in further evaluation of chemicals for listing on the Draft CCL 5. As described in Section III.A.1 of this document, EPA assessed data sources for potential use in the CCL 5 development process and set aside, as supplemental sources, those that met the relevance, completeness, and redundancy assessment factors but were not retrievable. EPA utilized these supplemental sources to fill data gaps as part of the CCL classification process. EPA also identified supplemental sources from data sources cited in public nominations (see Section III.C.1 of this document) and conducted literature searches to identify further supplemental occurrence and health effects data as described in this section.

i. Occurrence

For PCCL 5 chemicals that reached the classification step but lacked national drinking water data within the last 10 years, EPA conducted a search of peer-reviewed literature relevant to the occurrence of contaminants in drinking water to identify studies that provided supplemental occurrence data for drinking water or ambient water not captured in the primary data sources. The literature review was limited to journal articles published between 2010 and 2020.

Each of the supplemental data sources was reviewed to determine the availability of data for any of the PCCL 5 chemicals that required further evaluation through the CCL 5 classification process. EPA identified and compiled 12 supplemental literature sources for contaminant occurrence in drinking and ambient water. All supplemental occurrence data identified through the literature search were included in the CISs. More information on CISs can be found in Section III.A.4.c of this document and in the CIS Technical Support Document (USEPA, 2021e).

EPA's occurrence literature search was conducted in a systematic manner to fill the occurrence data gaps for contaminants on the PCCL. For example, EPA did not conduct occurrence literature searches for PCCL chemicals that had national drinking water occurrence data from the UCMR 3 or UCMR 4. These chemicals were considered to already have the best available occurrence data to inform whether a contaminant was known to occur in public water systems and therefore supplemental drinking or ambient water occurrence data was not needed. A full description of the occurrence literature search protocol and a list of supplemental occurrence literature utilized for CCL 5 can be found in the Appendix E of the Chemical Technical Support Document (USEPA, 2021c). In addition to supplemental occurrence data extracted through a targeted literature search, EPA compiled additional occurrence data from the 2006 Community Water Systems Survey (CWSS) (USEPA, 2009c; 2009d), EPA's Third Six-Year Review (SYR 3) (USEPA, 2017), and modeled concentrations from EPA's Office of Pesticide Programs (OPP).

The 2006 CWSS gathered data on the financial and operating characteristics of a random sample of CWSs nationwide. Systems serving more than 500,000 people were included in the sample, and systems in that size category were surveyed about concentrations of unregulated contaminants in their raw and finished water. EPA supplemented the data set by gathering additional information on contaminant occurrence at the systems in this size category from publicly available sources. The 2006 CWSS was used as supplemental source for the CCL 5 because the information is not statistically representative for the purpose of the CCL evaluation. For the SYR 3, EPA requested, through an Information Collection Request (ICR), that primacy agencies voluntarily submit drinking water compliance monitoring data collected during 2006–2011 to EPA. Some primacy agencies submitted occurrence data for unregulated contaminants in addition to the data on regulated contaminants. EPA extracted drinking water data on PCCL 5 chemicals from the SYR 3 ICR data, and supplemented these data by downloading additional publicly available monitoring data from state websites. These data were used as a supplemental data source and were included on the CISs.

Modeled concentration data were gathered for pesticides on the PCCL 5 that lack nationally representative drinking and/or nationally representative ambient water data. The modeled concentrations, known as estimated environmental concentrations (EECs) or estimated drinking water concentrations (EDWCs), of pesticides in water are often included in EPA's OPP registration and re-registration evaluation documentation, but are not in a retrievable format that could be efficiently extracted for all CCL 5 Chemical Universe pesticides.

Specific information on the systematic occurrence literature review, SYR 3 ICR, and state occurrence monitoring data sets, 2006 CWSS data set, and OPP modeled concentrations used in the Draft CCL 5 can be found in Section 4.2.1 of the Chemical Technical Support Document (USEPA, 2021c).

The data search efforts did not yield occurrence data for 13 publicly nominated chemicals that were lacking occurrence data in the CCL 5 Chemical Universe. As a result, these chemicals were not evaluated for listing on the Draft CCL 5 (Exhibit 6). More information is provided on this decision in Section III.C.2 of this document and Section 4.2.1.1 of the Chemical Technical Support Document (USEPA, 2021c).

ii. Health Effects

EPA developed the rapid systematic review (RSR) protocol to identify supplemental health effects data for PCCL 5 chemicals. The RSR process encompassed the identification of health effects information, including epidemiological and toxicological data, as well as physiologically-based pharmacokinetic models, and subsequent extraction of relevant data elements (*i.e.,* NOAELs and LOAELs) that could be used to derive toxicity values and CCL Screening Levels, further described in Section III.A.4.b.i of this document. The CCL 5 RSR process was designed to allow for screening and data synthesis of a large number of chemicals in a relatively short time frame. As such, the RSR process was comprised of:

A targeted chemical-specific literature search;

Machine learning-based screening to identify relevant literature;

A streamlined full-text review and study quality evaluation of relevant literature; and,

Data extraction components of traditional systematic reviews.

Studies targeted by the RSR literature search included those deemed relevant to health effects found in animal models after repeated oral exposure lasting at least 28 days. Epidemiological studies were also identified and catalogued for future use (*i.e.,* for Regulatory Determination). If available, NOAELs and LOAELs, along with their corresponding health effects, were extracted from all relevant studies. These toxicity values were populated on the CISs and were used as a supplemental source of information for chemical evaluators to understand potential health effects that could result from chronic exposure to PCCL 5 chemicals. A detailed description of the RSR process can be found in Section 4.2.1 of the Chemical Technical Support Document (USEPA, 2021c).

b. Calculated Data Elements

i. Health Reference Levels and CCL Screening Levels

Health Reference Levels (HRLs) and CCL Screening Levels are referred to collectively as ''health concentrations.'' Health concentrations are non-regulatory health-based toxicity values, expressed as concentrations of a contaminant in drinking water (in µg/L), which a person could consume over a lifetime and be unlikely to experience adverse health effects. HRLs are based on data elements (toxicity values including RfD, population-adjusted dose (PAD), CSF, etc.) extracted from ''qualifying'' health assessments, peer-reviewed, publicly available health assessments published by EPA and other health agencies. Assessments used to derive HRLs generally follow methodology that is consistent with EPA's current guidelines and guidance documents, are externally reviewed by experts in the field, and have been used during EPA regulatory efforts in the past. CCL Screening Levels are based on data elements (toxicity values including RfD equivalents, CSF equivalents, etc.) extracted from ''non-qualifying'' health assessments, publicly available assessments that are published by health agencies and provide valuable health information, but do not necessarily follow standard EPA methodologies and/or are not externally peer-reviewed. Alternatively, CCL Screening Levels can be based on data elements (NOAEL or LOAEL) extracted from peer-reviewed studies identified through the CCL 5 RSR process previously described.

The process for determining the toxicity value most appropriate for use in deriving the health concentration is similar to the process EPA uses for Regulatory Determination. Generally, EPA relies on its most recently published health assessment as the source of these toxicity values unless a qualifying assessment from another source incorporates new scientific information published after the publication date of the most recent EPA health assessment. If no qualifying health assessments are available, EPA extracts toxicity values from the most recently published non-qualifying health assessment. If no qualifying or non-qualifying health assessments are available, EPA relies on toxicity values extracted from studies identified through the health effects RSR process.

For carcinogens, the derived health concentration is the one-in-a-million cancer risk expressed as a drinking water concentration. For non-carcinogens, health concentrations are obtained by dividing the RfD (or equivalent) by an exposure factor, also known as the drinking water intake (DWI), and multiplying by a 20% relative source contribution (USEPA, 2000). All health concentrations were converted to units of µg/L to compare with CCL 5 occurrence concentrations and for use in derivation of the final Hazard Quotient. If a chemical had no available qualifying or non-qualifying health assessments or studies identified through the RSR process, or the available health assessments did not provide toxicity values, EPA did not derive a health concentration.

The health concentration used to derive the hazard quotient is presented on the summary page of the CIS alongside the critical effect and data element from which it was derived. EPA also provides health concentrations derived from supplementary assessments on the second page of the CIS as additional resources. Refer to Section 4.3.1 of the Chemical Technical Support Document (USEPA, 2021c) for more information about the sources and process for derivation of CCL 5 health concentrations.

ii. Final Hazard Quotients

Final hazard quotients (fHQ) are an important metric used in the evaluation of PCCL chemicals during the classification step. The fHQ is the ratio of a chemical's 90th percentile (of detections) water concentration over its health concentration (HRL or CCL screening level) at which no adverse effects are expected to occur. The fHQ serves as a benchmark for chemical evaluators to gauge the potential level of concern posed by the exposure to each chemical in drinking water.

A relatively higher fHQ value for a given chemical can generally be interpreted as an increase to the level of concern for exposure to the chemical in drinking water; as the ratio increases beyond 0, the expected exposure concerns also increase; an fHQ value equal to or greater than 1.0 indicates a chemical with water concentration exceeding its health concentration.

EPA followed the CCL 3 and CCL 4 protocol to select the concentration input values for the ratio as closely as possible while incorporating newly available data sources. Depending on data availability, the fHQ was calculated by first using the 90th percentile of detections from national drinking water monitoring data sources, such as UCMR.

If the 90th percentile was not available, EPA used the next highest percentile (95th or 99th) or maximum reported concentration value. For contaminants that lacked finished water data but had robust ambient water monitoring data from sources such as NAWQA, the ratio was developed by using the ambient water concentration. Similarly, if the 90th percentile was not available, the next highest percentile or maximum reported concentration was used. If no measured water data were available, EPA used modeled water data for pesticides developed by EPA's OPP to calculate the fHQ. For contaminants with no water data (either measured or modeled), the occurrence to health concentration ratio could not be calculated and the entry for the fHQ was left blank on the CIS.

Similarly, HRLs were the preferred health concentration used to derive the fHQ. If a chemical did not have data available to calculate an HRL, a CCL screening level was used to derive the fHQ. For chemicals with no relevant health effects data (*i.e.,* no HRL or CCL screening level), the occurrence to health concentration ratio could not be calculated and the entry for the fHQ was left blank on the CIS.

A more detailed description of the protocol used to calculate the final hazard quotients for CCL 5 can be found in Section 4.3.2 the Chemical Technical Support Document (USEPA, 2021c).

iii. Attribute Scores

During the CCL process, EPA evaluates relatively new and emerging contaminants not currently subject to EPA drinking water regulations. Some of these contaminants do not have readily available information on their health effects in humans and animal models and/or their occurrence in water. Recognizing the need to establish consistent relationships and enable comparison among different types of data, EPA developed a scaling system of attribute scores for the CCL 3 based on recommendations from the National Academy of Science's National Research Council (NRC, 2001) and the National Drinking Water Advisory Council (NDWAC, 2004). Attributes are defined as the properties used to categorize contaminants based on their potential to cause adverse health effects and occur in drinking water. The associated scores for these attributes provide a consistent, comparative framework for evaluation purposes that accommodate a variety of input data.

The health effects of a contaminant are categorized using the attributes of potency and severity, while the actual or potential occurrence of a contaminant is categorized using the attributes of prevalence and magnitude.

Potency reflects the potential for a chemical to cause adverse health effects based on the dose required to elicit the most sensitive adverse effect. Severity is a descriptive measure of the adverse health effect associated with the potency score. Unlike the other attributes, which are numerical, severity is categorical; contaminants are assigned to one of eight severity categories (non-cancer effects, no adverse effects, cosmetic effects, carcinogen with a linear mode of action, carcinogen with a mutagenic mode of action, carcinogen with a non-linear mode of action, reproductive and developmental effects, or reduced longevity) depending on the reported health endpoint.

Prevalence provides some indicator of how widespread the occurrence of the contaminant is in the environment, such as the percentage of public water systems or sample locations in a study reporting detections.

Magnitude describes the quantity of a contaminant that may be in the environment (*e.g.,* median concentration of detections or pounds applied annually). When direct occurrence data are not available, EPA uses Persistence-Mobility data as surrogate indicators of potential occurrence of a contaminant. Persistence-Mobility is defined by chemical properties that measure or estimate environmental fate characteristics of a contaminant and affect their likelihood to occur in water.

EPA used the attribute scoring developed for CCL 3 to evaluate PCCL 5 chemicals, with some adjustments made to the calibrations for potency and descriptions for severity. Those adjustments, along with the scoring scales and categories, are explained in detail in the Chemical Technical Support Document (USEPA, 2021c).

c. Evaluation Team Listing Decision Process

The EPA scientists on the two evaluation teams shared a broad range of professional experience and expertise across the agency and with the CCL process. These ''chemical evaluators'' were provided training, which included a detailed overview of the goals and general principles of the CCL process, types of data, and materials compiled to aid in evaluating chemicals for listing, the evaluation process steps, and the format of the discussion meetings. Of the 275 PCCL 5 chemicals, the evaluation teams reviewed 214 chemicals (Exhibit 6). The evaluation teams did not review 7 cyanotoxins, 23 DBPs, and 18 PFAS chemicals because they were listed as three chemical groups on the Draft CCL 5 (as discussed further in Section III.A.3.e of this document). Additionally, the evaluation teams did not evaluate the 13 publicly nominated chemicals due to lack of occurrence data.

The chemical evaluators on the two evaluation teams met over 20 times between March 19 and July 2, 2020, to discuss their individual reviews and reach consensus listing decisions as a group for batches of approximately 10–20 chemicals per batch. To prepare for these discussion meetings, the chemical evaluators independently reviewed the relevant health effects and occurrence information on CISs for each chemical in a batch. For each chemical on the PCCL 5 that was evaluated for potential listing, a CIS was developed to summarize the data and assist the chemical evaluators in making listing recommendations for the Draft CCL 5. Each CIS presents the health and occurrence data gathered from primary and supplemental data sources, as well as health and occurrence statistical measures described in Section III.A.4.b of this document. CISs also include additional information about the contaminant, such as the identity of the contaminant and its usage, whether it was subject to past negative regulatory determinations, listed on past CCLs, and publicly nominated for the CCL 5. Due to the inclusion of more data in the CCL 5 process, CISs for the Draft CCL 5 contain more information than those of past CCLs. CISs for contaminants evaluated for the Draft CCL 5 and further information on what data the CISs provide can be found in the CIS Technical Support Document (USEPA, 2021e).

Upon completing their independent reviews, the chemical evaluators submitted their listing decisions along with written justifications through a survey tool. The results from the survey were collected and tabulated before each facilitated group discussion. Numerical values were assigned to the individual evaluator's listing decision for each chemical (*i.e.,* 1 = No List, 2 = No List?, 3 = List?, and 4 = List) so that an average listing decision could be calculated. A question mark (?) signified that the chemical evaluator was leaning toward listing (List?) or toward not listing (No List?) but had some uncertainty. These average listing decisions helped inform the facilitator and the chemical evaluators of their collective decisions and guided the teams towards making the final listing recommendations for each chemical. In total, the evaluation teams recommended 66 chemicals for listing on the Draft CCL 5. A more detailed

description of the team listing process can be found in Section 4.5 of the Chemical Technical Support Document (USEPA, 2021c).

d. Logistic Regression

EPA conducted statistical analyses and developed a simple logistic regression model to validate the selection of the top 250 highest scoring chemicals for inclusion on the PCCL 5 and provide diagnostic feedback on the screening system during the evaluation team meetings. EPA hypothesized that screening scores have a positive association with listing decisions, and that the higher the screening score of a PCCL 5 chemical, the higher the probability of the chemical being recommended for listing by the evaluation teams. Additional analyses and logistic regression models were developed to further examine the efficacy of the screening scores and to determine additional factors, such as fHQs and health and occurrence attribute scores, associated with listing decisions.

The simple logistic regression models the statistical relationship between screening scores and the evaluation teams' list or not list decision. The model was used to obtain probabilities of listing at the highest screening score (top of the PCCL 5) and screening score directly below the PCCL 5 top 250. Results of this analysis indicate chemicals with higher screening scores are more likely to be listed than chemicals with lower screening scores. The predicted mean probability of listing at the top of the PCCL 5 is 0.90 and at the screening score directly below the PCCL 5 top 250 is 0.12. A full description of the modeling approach and results can be found in Section 4.6.2 of the Chemical Technical Support Document (USEPA, 2021c).

Following the evaluation team decisions, EPA explored other factors that may have impacted listing decisions and further evaluated how well the screening scores performed as a predictor of listing decisions. To accomplish this, EPA compiled a dataset that contained the chemical screening scores, health effects and occurrence attribute scores, fHQs, and other information. See Section 4.6.1 of the Chemical Technical Support Document (USEPA, 2021c) for details on the compiled dataset used in the statistical analyses. The first step of the analysis was to calculate descriptive statistics for each variable stratified by listing decision. Next, several simple logistic regression models were explored to obtain odds ratios (OR) and establish statistical significance of the predictor variables. Lastly, an area under the curve–receiver operator characteristic (AUC–ROC) curve analysis was conducted to examine the performance of simple logistic regression models and multivariable logistic models as predictors of listing decisions. The results of the simple logistic regression found the screening scores, attributes scores, and fHQs (adjusted for outliers) to be statistically significant predictors of listing decisions. The AUC–ROC analysis provided further evidence that the screening scores were a moderate-to-good predictor of listing decisions (AUC = 0.72) and led to the discovery of a multivariable logistic regression model that was a very good-to-excellent predictor of listing decisions (AUC = 0.89). A complete description of the results of the statistical analyses conducted for the Draft CCL 5 can be found in Section 4.6 of the Chemical Technical Support Document (USEPA, 2021c).

e. Chemical Groups on the Draft CCL 5

In addition to the 66 chemicals recommended for listing on the Draft CCL 5 by the evaluation teams (Exhibit 6), EPA proposes to list three chemical groups (cyanotoxins, DBPs, and PFAS) instead of listing them as individual chemicals. These chemical groups have been identified as agency priorities and contaminants of concern for drinking water under other EPA actions. Listing these three chemical groups on the Draft CCL 5 does not necessarily mean that EPA will make subsequent regulatory decisions for the entire group. EPA will evaluate scientific data on the listed groups, subgroups, and individual contaminants included in the group to inform any regulatory determinations for the group, subgroup, or individual contaminants in the group. Addressing the public health concerns of cyanotoxins in drinking water remains a priority as specified in the 2015 Algal Toxin Risk Assessment and Management Strategic Plan for Drinking Water (USEPA, 2015). Cyanotoxins are toxins naturally produced and released by some species of cyanobacteria (previously known as ''blue-green algae''), were listed on the CCL 3 and CCL 4 as a group. EPA is listing a cyanotoxin group on the Draft CCL 5, identical to the CCL 3 and CCL 4 listing. The group of cyanotoxins includes, but is not limited to: Anatoxin-a, cylindrospermopsin, microcystins, and saxitoxin. Cyanotoxins were also monitored under the UCMR 4.

EPA is also proposing to list 23 unregulated DBPs (as shown in Exhibit 2b) as a group on the Draft CCL 5. DBPs are formed when disinfectants react with naturally-occurring materials in water. Under the Stage 2 Disinfectants and Disinfection Byproducts Rule, there are currently 11 regulated DBPs from three subgroups that include four trihalomethanes, five haloacetic acids, and two inorganic compounds (bromate and chlorite). Under the Six-Year Review 3 (SYR 3), EPA identified 10 regulated DBPs (all but bromate) as ''candidates for revision'' (USEPA, 2017). For the Draft CCL 5, the group of 23 unregulated DBPs were either publicly nominated or among the top 250 chemicals. Listing these unregulated DBPs as a group on the Draft CCL 5 would be consistent with the decision that EPA has identified a number of microbial and disinfection byproduct (MDBP) drinking water regulations as candidates for revision in the agency's SYR 3 .

PFAS are a class of synthetic chemicals that are most commonly used to make products resistant to water, heat, and stains and are consequently found in industrial and consumer products like clothing, food packaging, cookware, cosmetics, carpeting, and fire-fighting foam (AAAS, 2020; USEPA, 2018b). Over 4,000 PFAS have been manufactured and used globally since the 1940s (USEPA, 2019b), which would make listing PFAS individually on the Draft CCL 5 difficult and challenging. EPA proposes to list PFAS as a group inclusive of any PFAS (except for PFOA and PFOS). For the purposes of this document, the structural definition of PFAS includes per- and polyfluorinated substances that structurally contain the unit R-(CF2)-C(F)(R′)R″. Both the CF2 and CF moieties are saturated carbons and none of the R groups (R, R′ or R″) can be hydrogen (USEPA, 2021f). This proposal is responsive to public nominations which stated that EPA should ''include PFAS chemicals as a class on CCL 5.'' This action is in keeping with the agency's commitment to better understand and ultimately reduce the potential risks caused by this broad class of chemicals. Including the broad group of PFAS on the Draft CCL 5 demonstrates the agency's commitment to prioritizing and building a strong foundation of science on PFAS while working to harmonize multiple authorities to address the impacts of PFAS on public health and the environment. EPA is also committed to a flexible approach and working collaboratively with states, tribes, water systems, and local communities that have been impacted by PFAS.

B. Approach Used To Identify Microbial Candidates for the Draft CCL 5

1. Building the Microbial Universe

EPA defined the microbial Universe for the CCL 5 as all known human pathogens. The microbial Universe was built on the CCL 3 and the CCL 4 Universe of 1,425 pathogens. EPA conducted a literature search, sought input from subject matter experts, and reviewed nominations for additional microbes to add to the Universe. As a result, 14 organisms were added to the CCL 5 Microbial Universe (Exhibit 7).

Changes to nomenclature of the microbes were made as necessary (in most cases combining two species into one organism group), making the total number of organisms in the microbial Universe 1,435. The full CCL 5 microbial Universe list is available in the Technical Support Document for the Draft fifth Contaminant Candidate List (CCL 5)—Microbial Contaminants (USEPA, 2021d).

EXHIBIT 7—MICROBIAL CONTAMINANTS ADDED TO THE MICROBIAL UNIVERSE FOR THE CCL 5

Microbial contaminant	Microbe class
Alloscardovia omnicolens	Bacteria.
Elizabethkingia anophelis	Bacteria.
Neoehrlichia mikurensis	Bacteria.
Parachlamydia acanthamoebae	Bacteria.
Waddia chondrophila	Bacteria.

EXHIBIT 7—MICROBIAL CONTAMINANTS ADDED TO THE MICROBIAL UNIVERSE FOR THE CCL 5—Continued

Microbial contaminant	Microbe class
Human bocavirus	Virus.
Human coronavirus SARS–CoV–2.	Virus.
KI polyomavirus	Virus.
Kobuvirus	Virus.
Lujo virus	Virus.
Parovovirus 4	Virus.
WU polyomavirus	Virus.
Botrytsis cinerea	Fungi.
Epiccocum purpurascens	Fungi.

2. Screening the Microbial Universe to the PCCL

During the CCL 3 process, EPA developed 12 screening criteria (Exhibit 8) to focus the Universe of all human pathogens to only those pathogens that could be transmitted through drinking water. Screening is based on a pathogen's epidemiology, geographical distribution, and biological properties in their host and in the environment. All pathogens that are not excluded by any screening criteria are moved to the PCCL. In addition, any pathogen documented to cause disease transmitted through drinking water regardless of the screening criteria, is also considered for the PCCL. The screening criteria restrict the microbial PCCL to human pathogens that may cause drinking water-related diseases resulting from ingestion of, inhalation of, or dermal contact with drinking water. For the Draft CCL 5, EPA re-evaluated the screening criteria for applicability to microbes and reviewed certain criterion in depth per recommendations received from the SAB and stakeholders during the development of the CCL 3 and the CCL 4. In particular, Criterion 1 (anaerobes), Criterion 9 (natural habitat is in the environment without epidemiological evidence of drinking water-related disease) and Criterion 10 (not endemic to North America) were closely re-evaluated based on previous comments for the CCL 3 and the CCL 4 from NDWAC, SAB, and the public. Upon further evaluation, EPA did not find supporting evidence to modify Criterion 1 and Criterion 10.

EPA modified the screening Criterion 9 to include pathogens on the PCCL with nosocomial infections where drinking water is implicated due to recent increases in and recognition of antimicrobial resistance and nosocomial infections. Modifying Criterion 9 addresses a SAB comment that the screening criteria for the CCL 4 microbial process were too restrictive. As a result, Criterion 9 was modified to include pathogens that cause nosocomial infections where drinking water is implicated so that it is less restrictive.

EXHIBIT 8—SCREENING CRITERIA FOR PATHOGENS

All anaerobes.
Obligate intracellular fastidious pathogens.
Transmitted by contact with blood or body fluids.
Transmitted by vectors.
Indigenous to the gastrointestinal tract, skin and mucous membranes.
Transmitted solely by respiratory secretions.
Life cycle incompatible with drinking water transmission.
Drinking water-related transmission is not implicated.
Natural habitat is in the environment without epidemiological evidence of drinking water-related disease **and without evidence of drinking water-related nosocomial infection.**
Not endemic to North America.
Represented by a pathogen for the entire genus or species (that are closely related).
Current taxonomy changed from taxonomy used in Universe.

Bolded text indicates the modification made to Criterion 9.

Based upon the screening criteria, 1,400 of the 1,435 pathogens were excluded; therefore 35 pathogens advanced to the PCCL. The results of the screening process are summarized in Exhibit 9. The criteria and results of the screening process are discussed in greater detail in the Technical Support Document for the Draft Fifth Contaminant Candidate List (CCL 5)—Microbial Contaminants (USEPA, 2021d).

EXHIBIT 9—APPLICATION OF 12 SCREENING CRITERIA TO PATHOGENS IN THE MICROBIAL CCL UNIVERSE

Pathogen class	Total	Screening criteria and number of pathogens screened out per criterion												Pathogens screened out	On PCCL
		1	2	3	4	5	6	7	8	9	10	11	12		
Bacteria	545	121	16	10	38	121	7	0	29	150	2	28	5	527	[1] 18
Viruses	225	0	0	29	104	0	20	1	20	0	36	8	0	218	7
Protozoa [2]	66	0	0	1	29	3	0	4	7	7	0	6	0	59	7
Helminths	286	0	0	0	25	0	0	105	0	0	156	0	0	286	0

EXHIBIT 9—APPLICATION OF 12 SCREENING CRITERIA TO PATHOGENS IN THE MICROBIAL CCL UNIVERSE—Continued

Pathogen class	Total	Screening criteria and number of pathogens screened out per criterion												Pathogens screened out	On PCCL
		1	2	3	4	5	6	7	8	9	10	11	12		
Fungi	313	0	0	0	0	12	3	0	0	295	0	0	0	310	3
Total	1,435	121	16	40	196	136	30	110	56	452	194	42	5	1,400	35

[1] NTM are included on the PCCL as a group.
[2] *Cryptosporidium* and *Giardia* (both protozoa) are considered to be regulated by the Long Term Surface Water Treatment Rule (LT–2); even though counted in the Microbial universe, they were not evaluated for screening.

3. The PCCL to Draft CCL Process

Pathogens on the PCCL were scored for placement on the Draft CCL 5. In developing the CCL 3, EPA devised a scoring system to assign a numerical value to each pathogen on the PCCL. Each pathogen on the PCCL was scored using three scoring protocols, one protocol each for waterborne disease outbreaks (WBDO), occurrence in drinking water, and health effects. The higher of the WBDO score or the occurrence score was added to the normalized health effects score to produce a composite pathogen score. Pathogens receiving high scores were considered for placement on the CCL.

EPA normalized the health effects score so that occurrence and health effects had equal weight in determining the ranking of the Draft CCL. The equal weighting of occurrence and health effects information closely mirrors the risk estimate methods used by EPA in drinking water regulation development. This scoring system prioritizes and restricts the number of pathogens on the CCL to only those that have been strongly associated with drinking water-related disease. Pathogens that scored low will remain on the PCCL until additional occurrence data, epidemiological surveillance data, or health effects data become available to support their reevaluation. It is important to note that pathogens for which there are no documented WBDO in drinking water earn a low score under the protocols. Pathogens that have caused a WBDO and have health effects data are rank higher than pathogens that only have health effect data but no evidence of a WBDO. The following sections describe the three protocols used to score the pathogens on the PCCL and the process by which the scores are combined.

a. Waterborne Disease Outbreak (WBDO) Protocol

The Centers for Disease Control and Prevention (CDC), EPA, and the Council of State and Territorial Epidemiologists (CSTE) have maintained a collaborative surveillance system for collecting and periodically reporting data related to occurrence and causes of WBDOs since 1971. In recent years, CDC has developed National Outbreak Reporting System (NORS) (CDC, 2020a) for WBDO reporting, in collaboration with CSTE and EPA, to improve the quality, quantity, and availability of data submitted to the Waterborne Disease and Outbreak Surveillance System (WBDOSS). For the Draft CCL 5, EPA used CDC's NORS as the primary data source for the WBDO protocol. Reports from the CDC system were published periodically in Morbidity and Mortality Weekly Report (MMWR) until 2017. For the CCL 3 and the CCL 4, EPA used MMWRs for the WBDO protocol.

For the Draft CCL 5, EPA used CDC's NORS for more recent outbreak information due to the most recent MMWR being published in 2014. For the WBDO protocol (Exhibit 10), a pathogen is scored as having a WBDO(s) in the U.S. if that pathogen is listed in a CDC waterborne disease drinking water surveillance summary (*i.e.,* on NORS from 2009–2017). Outbreaks that occurred in 2009 and after were used to capture microbes causing concern since the publication of the CCL 3. A pathogen with multiple WBDOs listed by CDC was given the highest score under this protocol. In addition, EPA scored non-CDC reported WBDOs and WBDOs outside the U.S. with lower scores. WBDOs outside the U.S. were scored when information was available from World Health Organization or other peer-reviewed publications.

In addition, CDC and EPA acknowledge that the WBDOs reported in the surveillance system represent only a portion of the burden of illness associated with drinking water exposure (CDC, 2008). The surveillance information does not include endemic waterborne disease risks, nor are reliable estimates available of the number of unrecognized WBDOs and associated cases of illness. Therefore, EPA also considered the non-CDC data as indicating a WBDO (even though CDC did not list it in their NORS) if the data showed a link between human illness defined by a common water source, a common time period of exposure and/or similar symptoms. Additionally, EPA considered the use of molecular typing methods to link patients and environmental isolates.

EXHIBIT 10—WATERBORNE DISEASE OUTBREAK SCORING PROTOCOL

Category	Score
Has caused multiple (2 or more) documented WBDOs in the U.S. as reported by CDC surveillance between 2009–2017	5
Has caused at least one documented WBDO in the U.S. as reported by CDC surveillance 2009–2017	4
Has caused documented WBDOs at any time in the U.S.	3
Has caused documented WBDOs in countries other than the U.S.	2
Has never caused WBDOs in any country, but has been epidemiologically associated with water-related disease	1

b. Occurrence Protocol

The second attribute of the scoring process evaluates the occurrence of a pathogen in drinking water and source water. Because water-related illness may also occur in the absence of recognized outbreaks, EPA scored the occurrence (direct detection) of microbes using cultural, immunochemical, or molecular detection of pathogens in drinking water under the Occurrence Protocol (Exhibit 11). Occurrence characterizes pathogen introduction, survival, and distribution in the environment. Occurrence implies that pathogens are present in water and that they may be capable of surviving and moving through water to cause

illness in persons exposed to drinking water by ingestion, inhalation, or dermal contact.

Pathogen occurrence is considered broadly to include treated drinking water, and all waters using a drinking water source for recreational purposes, ground water, and surface water bodies. This attribute does not characterize the extent to which a pathogen's occurrence poses a public health threat from drinking water exposure.

EXHIBIT 11—OCCURRENCE AND HEALTH EFFECTS SCORING PROTOCOLS FOR PATHOGENS

Category	Score
Occurrence Scoring Protocol:	
Detected in drinking water in the U.S.	3
Detected in source water in the U.S.	2
Not detected in the U.S.	1
Health Effects Scoring Protocol:	
Does the organism cause significant mortality (>1/1,000 cases)?	7
Does the organism cause pneumonia, meningitis, hepatitis, encephalitis, endocarditis, cancer, or other severe manifestations of illness necessitating long term hospitalization (>week)?	6
Does the illness result in long term or permanent dysfunction or disability (e.g., sequelae)?	5
Does the illness require short term hospitalization? (<week)?	4
Does the illness require physician intervention?	3
Is the illness self-limiting within 72 hours (without requiring medical intervention)?	2
Does the illness result in mild symptoms with minimal or no impact on daily activities?	1

c. Health Effects Protocol

EPA's health effects protocol evaluates the extent or severity of human illness produced by a pathogen across a range of potential endpoints. The seven-level hierarchy developed for this protocol (Exhibit 11) begins with mild, self-limiting illness (score of 1) and progresses to death (score of 7).

The final outcome of a host-pathogen relationship resulting from drinking water exposure is a function of viability, infectivity, and pathogenicity of the microbe to which the host is exposed and the host's susceptibility and immune response. SDWA directs EPA to consider subgroups of the population at greater risk of adverse health effects (*i.e.,* sensitive populations) in the selection of unregulated contaminants for the CCL. Sensitive populations may have increased susceptibility and may experience increased severity of symptoms, compared to the general population. The SDWA refers to several categories of sensitive populations including children and infants, elderly, pregnant women, and persons with a history of serious illness. Health effects for individuals with marked immunosuppression (*e.g.,* primary or acquired severe immunodeficiency, transplant recipients, individuals undergoing potent cytoreductive treatments) are not included in this health effect scoring. While such populations are considered sensitive subpopulations, immunosuppressed individuals often have a higher standard of ongoing health care and protection required than the other sensitive populations under medical care. More importantly, nearly all pathogens have very high health effect scores for the markedly immunosuppressed individuals; therefore, there is little differentiation between pathogens based on health effects for the immunosuppressed subpopulation.

This protocol scores the representative or common clinical presentation for the specific pathogen for the population category under consideration. Pathogens may produce a range of illness from asymptomatic infection to fulminate illness progressing rapidly to death. Scoring decisions are based upon the more common clinical presentation and clinical course for the population under consideration, rather than the extremes. EPA used recently published clinical microbiology manuals (Carroll et al., 2019; Murray et al., 2011) as the primary data source for the common clinical presentation. These manuals took a broad epidemiological view of health effects rather than focusing on narrow research investigations or single cases.

To obtain a representative characterization of health effects in all populations, EPA evaluated (separately) the general population and four sensitive populations (children, elderly, pregnant woman, and persons with chronic diseases) as to the common clinical presentation of illness for that population. EPA added the general population score to the highest score among the four sensitive subpopulations for an overall health effects score. The resulting score reflects that sensitive populations have increased risk for waterborne diseases.

d. Combining Protocol Scores To Rank Pathogens

EPA scored and ranked the microbes on the PCCL using the three attribute scoring protocols for WBDOs, occurrence, and health effects. These protocols are designed in a hierarchical manner so that each pathogen is evaluated using the same criteria and that the criteria range for each protocol varies from high to low significance. The three attribute scores are then combined into a total score.

EPA scored pathogens first using the WBDO and occurrence protocols, and then selected the higher score of the two scores. Selection of the higher score from the WBDO or occurrence protocol elevates pathogens that have been detected in drinking water or source water in the U.S. (occurrence score of 2 or 3) above pathogens that have caused WBDOs in other countries but not in the U.S. (WBDO score of 2).

The CCL selection process placed more weight on pathogens causing recent WBDOs than on those detected in drinking water without documented waterborne disease from that exposure. Direct detection of pathogens indicates the potential for waterborne transmission of disease. Documented WBDOs provide an additional weight of evidence that illness was transmitted and that there was a waterborne route of exposure.

Next, pathogens were scored using the Health Effects Protocol. The pathogen's score for the general population was added to the highest score among the four sensitive populations to produce a sum score between 2 and 14.

Finally, EPA normalizes the Health Effects score and WBDO/Occurrence score because these are of equal importance. The highest possible score for WBDO/Occurrence is 5 and the highest possible Health Effects score is 14. To equalize this imbalance, EPA

multiplies the health effect score by 5/14. Combining health effects data with the WBDO/occurrence data by adding the scores from these protocols provides a system that evaluates both the severity of potential disease and the potential magnitude of exposure through drinking water. Exhibit 12 presents the scores for all the 35 PCCL pathogens.

EXHIBIT 12—SCORES FOR ALL THE PCCL 5 PATHOGENS

Pathogen	Ranking	WBDO	Occurrence	Normalized health score	Total score [1]
Naegleria fowleri	1	5	3	5.0	10.0
Legionella pneumophila	2	5	3	3.6	8.6
Escherichia coli (O157)	3	5	3	3.2	8.2
Pseudomonas aeruginosa	4	5	3	3.2	8.2
Helicobacter pylori	5	1	3	5.0	8.0
Campylobacter jejuni	6	5	3	2.5	7.5
Mycobacterium abcessus	7	4	3	3.2	7.2
Shigella sonnei	8	4	3	3.2	7.2
Caliciviruses	9	5	3	2.1	7.1
Mycobacterium avium	10	4	3	2.9	6.9
Adenovirus	11	2	3	3.6	6.6
Enterovirus	12	2	3	3.6	6.6
Pantoea agglomerans	13	4	3	2.5	6.5
Hepatitis A virus	14	3	2	3.2	6.2
Arcobacter butzleri	15	4	3	2.1	6.1
Fusarium solani	16	1	3	2.9	5.9
Nontuberculous Mycobacteria (NTM)	17	3	3	2.9	5.9
Hepatitis E virus	18	2	1	3.6	5.6
Cyclospora cayetanensis	19	3	3	2.5	5.5
Rotavirus	20	2	3	2.5	5.5
Salmonella enterica	21	3	3	2.5	5.5
Toxoplasma gondii	22	2	1	3.2	5.2
Aspergillus fumigatus group	23	1	3	2.1	5.1
Entamoeba histolytica	24	3	3	2.1	5.1
Exophiala jeanselmei	25	1	3	2.1	5.1
Vibrio cholerae	26	3	3	2.1	5.1
Aeromonas hydrophila	27	1	3	1.8	4.8
Plesiomonas shigelloides	28	3	3	1.8	4.8
Blastocystis hominis	29	4	1	0.7	4.7
Acinetobacter baumannii	30	1	2	2.5	4.5
Comanonas testosteroni	31	1	2	2.5	4.5
Yersinia enterocolitica	32	3	3	1.4	4.4
Astrovirus	33	2	2	1.4	3.4
Microsporidia	34	1	2	1.4	3.4
Isospora belli	35	2	1	1.1	3.1

[1] Total Score = Normalized Health Score + the higher of WBDO or Occurrence.

e. Selection of the Draft CCL Microbes

The 35 PCCL pathogens, listed in Exhibit 12, are ranked according to an equal weighting of their summed scores for normalized health effects and the higher of the individual scores for WBDO and occurrence in drinking water. EPA believes this ranking indicates the most important pathogens to consider for the Draft CCL 5. To determine which of the 35 PCCL pathogens should be the highest priority for EPA's drinking water program and included on the Draft CCL 5, EPA considered scientific factors and the opportunity to advance public health protection. The factors included the PCCL scores for WBDO, occurrence, and health effects; and comments and recommendations from the various expert panels, including EPA's internal workgroup and CDC subject matter experts. The evaluation prioritizes the pathogens that provide the best opportunities to advance public health protection. After consideration of these factors, EPA has decided to include in the Draft CCL 5 the 12 highest ranked pathogens shown in Exhibit 12. The selection of microbial pathogens for the CCL 5 was similar to the method used for the CCL 3 and the CCL 4 with the exception that with the CCL 5, there were no ''natural'' break points in the ranked scores for the 35 pathogens.

EPA believes that the overall rankings strongly reflect the best available scientific data and high quality expert input employed in the CCL selection process, and therefore should be important factors in helping to identify the top priority pathogens for the Draft CCL 5.

f. Organisms Covered by Existing Regulations

According to Section 1412(b)(1) of the 1996 SDWA Amendments, EPA must select CCL contaminants that ''at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation.'' In promulgating regulations for contaminants in drinking water, EPA can set either a legal limit (maximum contaminant level or MCL) and require monitoring for the contaminant in drinking water or, for those contaminants that are difficult to measure, EPA can establish a treatment technique requirement. The Surface Water Treatment Rule (54 FR 27486, USEPA, 1989a) established maximum contaminant level goals (MCLGs) of zero for Legionella, Giardia, and viruses because any amount of exposure to these contaminants represents some public health risk. Since measuring disease-causing microbes in drinking water was not considered to be feasible at the time of the development of the SWTR, EPA established treatment

technique requirements for these contaminants. The purpose of subsequent treatment technique requirements (Interim Enhanced Surface Water Treatment Rule (63 FR 69478, USEPA 1998a), Long Term 1 Surface Water Treatment Rule (67 FR 1813, USEPA, 2002a), and the Long Term 2 Surface Water Treatment Rule (71 FR 654, USEPA, 2006a), which included an MCLG of zero for Cryptosporidium, is to reduce disease incidence associated with Cryptosporidium and other pathogenic microorganisms in drinking water. These rules apply to all public water systems that use surface water or ground water under the direct influence of surface water.

The Ground Water Rule (GWR) (71 FR 65573; USEPA, 2006c) set treatment technique requirements to control for viruses (and pathogenic bacteria) because it was not feasible to monitor for viruses (or pathogenic bacteria) in drinking water. Under the GWR, if systems detect total coliforms in the distribution system, they are required to monitor for a fecal indicator (E. coli, coliphage, or enterococci) in the source water. If fecal contamination is found in the source water, the system must take remedial action to address contamination.

EPA considered Legionella and specific viruses in CCL even though they are regulated under the Surface Water Treatment Rules (SWTR). In this draft document, EPA proposes to specifically list Legionella pneumophila, the primary pathogenic bacterium, on the Draft CCL 5 because it has been identified in numerous WBDOs and is the most common cause of reported drinking water-associated outbreaks in the U.S. Furthermore, reported Legionnaires' disease has increased 10-fold in the last 20 years (CDC, 2020b). A recent National Academies of Science report estimated 52,000–70,000 cases of Legionnaires' disease annually, with 3–30% mortality (NASEM, 2020).

EPA is also proposing to list certain viruses on the Draft CCL 5. Viruses include a wide range of taxa and different viral taxa have been implicated in various WBDOs for which EPA did not have dose response or treatment data when promulgating its treatment technique requirements.

Even though there are MCLGs for Legionella and viruses, and these contaminants are subject to limitations as a class through the treatment techniques under the Surface Water Treatment Rules, there are no monitoring, treatment, or notification requirements within those NPDWRs that are specific to Legionella pneumophila or the specific viruses listed on CCL5 (although systems may use coliphage for source water monitoring for ground water systems). Therefore, EPA considers Legionella pneumophila and the specific viruses listed on CCL5 to be unregulated contaminants for purposes of eligibility for the CCL. Additionally, EPA received public nomination for viruses and Legionella for the Draft CCL 5, with Legionella pneumophila receiving the highest number of nominations.

C. Summary of Nominated Candidates for the Draft CCL 5

EPA sought public nominations in a **Federal Register** notice on October 5, 2018, for unregulated chemical and microbial contaminants to be considered for possible inclusion in the CCL 5 (83 FR 50364, USEPA, 2018a). In accordance with the SDWA, which directs EPA to consider health effects and occurrence information when deciding whether to place contaminants on the CCL, EPA asked that nominations include responses to the following questions:

What is the contaminant's name, CAS registry number, and/or common synonym (if applicable)? Please do not nominate a contaminant that is already subject to a national primary drinking water regulation.

What are the data that you believe support the conclusion that the contaminant is known or anticipated to occur in public water systems? For example, provide information that shows measured occurrence of the contaminant in drinking water or measured occurrence in sources of drinking water or provide information that shows the contaminant is released in the environment or is manufactured in large quantities and has a potential for contaminating sources of drinking water. Please provide the source of this information with complete citations for published information (*i.e.,* author(s), title, journal, and date) or contact information for the primary investigator.

What are the data that you believe support the conclusion that the contaminant may require regulation? For example, provide information that shows the contaminant may have an adverse health effect on the general population or that the contaminant is potentially harmful to subgroups that comprise a meaningful proportion of the population (such as children, pregnant women, the elderly, individuals with a history of serious illness, or others). Please provide the source of this information with complete citations for published information (*i.e.,* author(s), title, journal, and date) or contact information for the primary investigator.

EPA compiled and reviewed the information from the nominations process to identify the contaminants nominated and any sources of supporting data submitted that could be used to supplement the data gathered by EPA to inform selection of the Draft CCL 5.

EPA received nominations for 89 unique contaminants for the CCL 5, including 73 chemicals and 16 microbes. Nominated contaminants included chemicals used in commerce, pesticides, disinfection byproducts, pharmaceuticals, naturally occurring elements, biological toxins, and waterborne pathogens. Contaminants nominated for consideration for the CCL 5 are shown in Exhibit 13.

EPA received nominations from 29 different organizations and/or individuals. There were three general types of nominations: specific individual chemicals, specific individual organisms, and groups of contaminants (*e.g.,* PFAS). Seven chemicals and eight microbes were nominated by more than one organization or individual. Legionella pneumophila received the most nominations, nominated by 18 organizations or individuals. Among chemicals, perfluorononanoic acid (PFNA), PFOS, and PFOA received the most nominations, each nominated by three organizations or individuals. In addition to individual contaminants, groups of contaminants were nominated, such as brominated haloacetic acids known as ''HAA6Br,'' cyanotoxins, GenX chemicals (hexafluoropropylene oxide dimer acid (HFPO–DA) and its ammonium salt), all the PFAS approved by the EPA Method 537.1, PFAS, and the top 200 prescribed drugs of 2016 and their parents and metabolites. A public commenter also proposed that all CCL 4 contaminants be retained on the CCL 5.

EPA also received recommendations for the CCL process. All public nominations can be viewed in the EPA docket at *https://www.regulations.gov* (Docket ID No. EPA–HQ–OW–2018–0594). A more detailed summary of the nomination process is included in Section 3.6 of the Chemical Technical Support Document (USEPA, 2021c) and in Section 2.1 of the Microbial Technical Support Document (USEPA, 2021d).

EXHIBIT 13—CONTAMINANTS NOMINATED FOR CONSIDERATION ON THE DRAFT CCL 5: NOMINATED CHEMICAL CONTAMINANT

Chemical name	CASRN	DTXSID
1,1-Dichloroethane	75–34–3	DTXSID1020437
1,4-Dioxane	123–91–1	DTXSID4020533
1-Phenylacetone [1]	103–79–7	DTXSID1059280
2-(N-Methylperfluorooctane sulfonamido)acetic acid (Me-PFOSA-AcOH)	2355–31–9	DTXSID10624392
2-(N-Ethyl perfluorooctane sulfonamido) acetic acid (Et-PFOSA-AcOH)	2991–50–6	DTXSID5062760
2-[(8-Chloro-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-Hexadecafluorooctyl)oxy]-1,1,2,2-tetrafluoroethane-1-sulfonic acid (11Cl-PF3OUdS).	763051–92–9	DTXSID40892507
3-Hydroxycarbofuran	16655–82–6	DTXSID2037506
3-Monoacetylmorphine [1]	29593–26–8	DTXSID30183774
4,8-Dioxa-3H-perfluorononanoic acid (ADONA)	919005–14–4	DTXSID40881350
6-Monoacetylmorphine [1]	2784–73–8	DTXSID60182154
Ammonium perfluoro-2-methyl-3-oxahexanoate	62037–80–3	DTXSID40108559
Anatoxin A	64285–06–9	DTXSID50867064
Azinphos-methyl	86–50–0	DTXSID3020122
Benzoic acid [1]	65–85–0	DTXSID6020143
Benzoic acid glucuronide [1]	19237–53–7	DTXSID90940901
Bromochloroacetic acid (BCAA)	5589–96–8	DTXSID4024642
Bromochloroiodomethane (BCIM)	34970–00–8	DTXSID9021502
Bromodichloroacetic acid (BDCAA)	71133–14–7	DTXSID4024644
Bromodichloronitromethane (BDCNM)	918–01–4	DTXSID4021509
Bromodiiodomethane (BDIM)	557–95–9	DTXSID70204235
Chlorate	14866–68–3	DTXSID3073137
Chlorodibromoacetic acid (CDBAA)	5278–95–5	DTXSID3031151
Chloro-diiodo-methane (CDIM)	638–73–3	DTXSID20213251
Chloropicrin (trichloro-nitromethane; TCNM)	76–06–2	DTXSID0020315
Chlorpyrifos	2921–88–2	DTXSID4020458
Cylindrospermopsin	143545–90–8	DTXSID2031083
Dibromochloronitromethane (DBCNM)	1184–89–0	DTXSID00152114
Dibromoiodomethane (DBIM)	593–94–2	DTXSID60208040
Dichloroiodomethane (DCIM)	594–04–7	DTXSID7021570
Fluoxetine	5491–89–3	DTXSID7023067
Gemfibrozil	25812–30–0	DTXSID0020652
Heroin	561–27–3	DTXSID6046761
Hippuric acid [1]	495–69–2	DTXSID9046073
Hydromorphone [1]	466–99–9	DTXSID8023133
Hydromorphone-3-glucuronide [1]	No CASRN	NO_DTXSID
Hydroxyamphetamide [1]	103–86–6	DTXSID3023134
Isodrin (Pholedrine, 4-Hydroxymethamphetamine) [1]	465–73–6	DTXSID7042065
Manganese	7439–96–5	DTXSID2024169
Methamphetamine [1]	537–46–2	DTXSID8037128
Microcystin LA	96180–79–9	DTXSID3031656
Microcystin LR	101043–37–2	DTXSID3031654
Microcystin LW	No CASRN	DTXSID70891285
Microcystin RR	111755–37–4	DTXSID40880085
Microcystin YR	101064–48–6	DTXSID00880086
Molybdenum	7439–98–7	DTXSID1024207
Morphine	57–27–2	DTXSID9023336
Morphine-3-glucuronide	20290–09–9	DTXSID80174157
Morphine-6-glucuronide [1]	20290–10–2	DTXSID40174158
N-Nitrosodiethylamine (NDEA)	55–18–5	DTXSID2021028
N-Nitrosodimethylamine (NDMA)	62–75–9	DTXSID7021029
N-Nitroso-di-n-propylamine (NDPA)	621–64–7	DTXSID6021032
N-Nitrosodiphenylamine (NDPhA)	86–30–6	DTXSID6021030
N-Nitrosopyrrolidine (NPYR)	930–55–2	DTXSID8021062
Perfluoro(2-((6-chlorohexyl)oxy)ethanesulfonic acid) (9Cl-PF3ONS)	756426–58–1	DTXSID80892506
Perfluoro-2-methyl-3-oxahexanoic acid	13252–13–6	DTXSID70880215
Perfluorobutane sulfonic acid (PFBS)	375–73–5	DTXSID5030030
Perfluorobutyric acid (PFBA)	375–22–4	DTXSID4059916
Perfluorodecanoic acid (PFDeA/PFDA)	335–76–2	DTXSID3031860
Perfluorododecanoic acid (PFDoA)	307–55–1	DTXSID8031861
Perfluoroheptanoic acid (PFHpA)	375–85–9	DTXSID1037303
Perfluorohexane sulfonic acid (PFHxS)	355–46–4	DTXSID7040150
Perfluorohexanoic acid (PFHxA)	307–24–4	DTXSID3031862
Perfluorononanoic acid (PFNA)	375–95–1	DTXSID8031863
Perfluorooctanesulfonamide (PFOSA)	754–91–6	DTXSID3038939
Perfluorooctane sulfonic acid (PFOS)	1763–23–1	DTXSID3031864
Perfluorooctanoic acid (PFOA)	335–67–1	DTXSID8031865
Perfluorotetradecanoic acid (PFTA)	376–06–7	DTXSID3059921
Perfluorotridecanoic acid (PFTrDA)	72629–94–8	DTXSID90868151
Perfluoroundecanoic acid (PFUA/PFUnA)	2058–94–8	DTXSID8047553
Phenylpropanolamine [1]	37577–28–9	DTXSID4023466

EXHIBIT 13—CONTAMINANTS NOMINATED FOR CONSIDERATION ON THE DRAFT CCL 5: NOMINATED CHEMICAL CONTAMINANT—Continued

Chemical name	CASRN	DTXSID
Strontium	7440–24–6	DTXSID3024312
Tribromoacetic acid (TBAA)	75–96–7	DTXSID6021668
Triiodomethane (TIM)	75–47–8	DTXSID4020743

[1] Thirteen nominated chemicals did not have available water occurrence data, even after a systematic literature search was conducted, and therefore were not evaluated for listing on the Draft CCL 5. See Section 4.2.1.1 of the Chemical Technical Support Document for more information.

NOMINATED MICROBIAL CONTAMINANTS

Microbial name
Adenovirus.
Aeromonas hydrophila.
Caliciviruses.
Campylobacter jejuni.
Enterovirus.
Escherichia coli (0157).
Helicobacter pylori.
Hepatitis A virus.
Legionella pneumophila.
Mycobacterium species predominantly found in drinking water.
Mycobacterium avium.
Naegleria fowleri.
Non-tuberculous Mycobacterium (NTM).
Pseudomonas aeruginosa.
Salmonella enterica.
Shigella sonnei.

1. Data Sources for the Nominated Chemical and Microbial Contaminants

a. Chemical Nominations

EPA reviewed the public nominations for the 73 chemicals and determined which nominated chemicals were already included in the CCL 5 Chemical Universe and which ones were not. If a chemical was already part of the CCL 5 Chemical Universe, this meant that EPA had identified and extracted health effects and occurrence data on this chemical from primary data sources in Step 1, Building the Chemical Universe. However, most of these chemicals did not have sufficiently high screening scores and therefore required additional data to evaluate them. For the nominated chemicals that were not included in the CCL 5 Chemical Universe, they would require further data collection to be evaluated for listing on the Draft CCL 5. To identify additional data for these nominated chemicals, EPA assessed data sources cited with public nominations using the assessment factors described in Section III.A.1 of this document and extracted health effects and occurrence data from sources that were relevant, complete, and not redundant. Sources that met these three assessment factors were considered supplemental data sources and could serve as references to fill any data gaps for particular chemical contaminants during Step 3 of the CCL 5 process (see Section III.A.3 of this document). EPA also conducted literature searches to identify additional health effects and occurrence data; more information can be found on the literature searches in Section III.A.3.a of this document and in Chapter 4 of the Chemical Technical Support Document (USEPA, 2021c). A complete list of supplemental sources can be found in Appendix B of the Chemical Technical Support Document (USEPA, 2021c).

b. Microbial Nominations

EPA reviewed the nominated microbial contaminants and the supporting information provided by nominators to determine if any new data were provided that had not been previously evaluated. EPA also collected additional data for the nominated microbial contaminants, when available, from both the CCL 3 and CCL 4 data sources that had been updated and from literature searches covering the time between the CCL 4 and the CCL 5 (2016–2019). If new data were available, EPA screened and scored the microbial contaminants nominated for CCL 5 using the same process that was used for the CCL 3 and the CCL 4. There were no new publicly nominated microbial data sources for the CCL 5. A more detailed description of the data sources used to evaluate microbial contaminants for the Draft CCL 5 can be found in the Microbial Technical Support Document (USEPA, 2021d).

2. Listing Outcomes for the Nominated Chemical Contaminants

EPA reviewed the nominated chemical contaminants and identified which chemicals were (i) not already on the PCCL 5, and (ii) not subject to proposed or promulgated NPDWRs, and needed to be considered for further analysis. EPA did not add publicly nominated groups like ''the top 200 most prescribed drugs in 2016 and their parents and metabolites'' to the PCCL 5 because health effects and occurrence data must be linked to specific individual contaminants in order to be evaluated. However, individual chemicals in a nominated group could still be listed on the PCCL if they were also nominated individually or if they were part of the CCL 5 Chemical Universe and screened to the PCCL.

EPA could not identify occurrence data for 13 nominated chemicals (Exhibit 13) from either primary or supplemental data sources nor was data provided in the public nominations. Without available data regarding measured occurrence in water or relevant data provided by the nominators, the two evaluation teams agreed that they could not determine whether these chemicals were likely to present the greatest public health concern through drinking water exposure and therefore should not advance further in the CCL 5 process. However, some were evaluated for possible research needs (see Chapter 5 of the Chemical Technical Support Document; USEPA, 2021c). More detailed information about how nominated chemicals were considered for the Draft CCL 5 can be found in Section 3.6 of the Chemical Technical Support Document (USEPA, 2021c).

Four publicly nominated chemicals were included on the Draft CCL 5 as a result of evaluation team listing decisions, including 1,4-dioxane, chlorpyrifos, manganese, and molybdenum. In addition, 43 nominated chemicals consisting of 7 cyanotoxins, 18 DBPs, and 18 PFAS chemicals were included in the three chemical groups listed on the Draft CCL 5 (*e.g.,* the cyanotoxin, DBP, and PFAS groups). The PFAS group is inclusive of any PFAS, except for PFOA and PFOS. Although PFOA and PFOS were nominated, EPA has made a positive final regulatory determination for these two chemicals; and therefore, did not include them in the PFAS group.

3. Listing Outcomes for the Nominated Microbial Contaminants

All the microbes nominated for the CCL 5, with the exception of *Salmonella enterica,* and *Aeromonas hydrophila,* and Hepatitis A, are listed on the Draft CCL 5. *Salmonella enterica, Aeromonas hydrophila* and Hepatitis A did not produce sufficient composite scores to place them on the Draft CCL 5.

Although *Salmonella enterica* and Hepatitis A have numerous WBDOs, the route of exposure was not explicitly waterborne. Non-tuberculous Mycobacterium (NTM) and Mycobacterium (species broadly found in drinking water) were nominated for the CCL 5 and are not listed on the Draft CCL 5 as a group; instead, they were listed as *Mycobacterium avium* and *Mycobacterium abscessus,* two species of NTM that are found in drinking water.

D. Data Availability Assessment for the Draft CCL 5 Chemicals

In an effort to provide the current data availability of the Draft CCL 5 contaminants with respect to occurrence, health effects, and analytical methods data, EPA provides a summary table (Exhibit 14) depicting chemicals categorized into six groups depending upon the availability of their occurrence data and health assessment. EPA did not assess data availability for individual chemicals of the cyanotoxins, DBPs and PFAS groups because the availability of health effects and occurrence data varies with individual chemicals in each group. The agency is addressing these groups broadly in drinking water based on a subset of chemicals in these groups that are known to occur in public water systems and may cause adverse health effects.

EXHIBIT 14—DATA AVAILABILITY/INFORMATION FOR THE DRAFT CCL 5 CONTAMINANTS

CASRN	DTXSID	Common name	Best available occurrence data	Is a health assessment available?	Is an analytical method available?
A. Contaminants with Nationally Representative Finished Water Occurrence Data and Qualifying Health Assessments					
96–18–4	DTXSID9021390	1,2,3-Trichloropropane	National Finished Water	Yes	Yes.
123–91–1	DTXSID4020533	1,4-dioxane	National Finished Water	Yes	Yes.
319–84–6	DTXSID2020684	alpha-Hexachlorocyclohexane	National Finished Water	Yes	Yes.
7440–42–8	DTXSID3023922	Boron	National Finished Water	Yes	Yes.
63–25–2	DTXSID9020247	Carbaryl	National Finished Water	Yes	Yes.
2921–88–2	DTXSID4020458	Chlorpyrifos	National Finished Water	Yes	Yes.
7440–48–4	DTXSID1031040	Cobalt	National Finished Water	Yes	Yes.
60–57–1	DTXSID9020453	Dieldrin	National Finished Water	Yes	Yes.
330–54–2	DTXSID0020446	Diuron	National Finished Water	Yes	Yes.
13194–84–4	DTXSID4032611	Ethoprop	National Finished Water	Yes	Yes.
7439–93–2	DTXSID5036761	Lithium	National Finished Water	Yes	Yes.
7439–96–5	DTXSID2024169	Manganese	National Finished Water	Yes	Yes.
7439–98–7	DTXSID1024207	Molybdenum	National Finished Water	Yes	Yes.
42874–03–3	DTXSID7024241	Oxyfluorfen	National Finished Water	Yes	Yes.
52645–53–1	DTXSID8022292	Permethrin	National Finished Water	Yes	Yes.
41198–08–7	DTXSID3032464	Profenofos	National Finished Water	Yes	Yes.
1918–16–7	DTXSID4024274	Propachlor	National Finished Water	Yes	Yes.
91–22–5	DTXSID1021798	Quinoline	National Finished Water	Yes	Yes.
107534–96–3	DTXSID9032113	Tebuconazole	National Finished Water	Yes	Yes.
78–48–8	DTXSID1024174	Tribufos	National Finished Water	Yes	Yes.
7440–62–2	DTXSID2040282	Vanadium	National Finished Water	Yes	Yes.
95–53–4	DTXSID1026164	2-Aminotoluene	National Finished Water	Yes	Yes.
51–28–5	DTXSID0020523	2,4-Dinitrophenol	National Finished Water	Yes	Yes.
B. Contaminants with Non-Nationally Representative Finished Water Occurrence Data and Qualifying Health Assessments					
2163–68–0	DTXSID6037807	2-Hydroxyatrazine	Non-National Finished Water	Yes	No.
120068–37–3	DTXSID4034609	Fipronil	Non-National Finished Water	Yes	No.
121–74–5	DTXSID4020791	Malathion	Non-National Finished Water	Yes	Yes.
36734–19–7	DTXSID3024154	Iprodione	Non-National Finished Water	Yes	No.
298–02–2	DTXSID4032459	Phorate	Non-National Finished Water	Yes	Yes.
27314–13	DTXSID8024234	Norflurazon	Non-National Finished Water	Yes	Yes.
2303–17–5	DTXSID5024344	Tri-allate	Non-National Finished Water	Yes	No.
139–40–2	DTXSID3021196	Propazine	Non-National Finished Water	Yes	Yes.
1689–84–5	DTXSID3022162	Bromoxynil	Non-National Finished Water	Yes	No.
2312–35–8	DTXSID4024276	Propargite	Non-National Finished Water	Yes	No.
141–66–2	DTXSID9023914	Dicrotophos	Non-National Finished Water	Yes	Yes.
709–98–8	DTXSID8022111	Propanil	Non-National Finished Water	Yes	Yes.
153719–23–4	DTXSID2034962	Thiamethoxam	Non-National Finished Water	Yes	No.
10605–21–7	DTXSID4024729	Carbendazim (MBC)	Non-National Finished Water	Yes	No.
55283–68	DTXSID8032386	Ethalfluralin	Non-National Finished Water	Yes	No.
3397624	DTXSID1037806	Diaminochlorotriazine (DACT)	Non-National Finished Water	Yes	No.
96182535	DTXSID1032482	Tebupirimfos	Non-National Finished Water	Yes	Yes.
114261	DTXSID7021948	Propoxur	Non-National Finished Water	Yes	Yes.
732116	DTXSID5024261	Phosmet	Non-National Finished Water	Yes	Yes.
2164–17–2	DTXSID8020628	Fluometuron	Non-National Finished Water	Yes	Yes.
C. Contaminant with Nationally Representative Finished Water Occurrence Data Lacking Qualifying Health Assessments					
1634–04–4	DTXSID3020833	Methyl tert-butyl ether (MTBE)	National Finished Water	No	Yes.
D. Contaminants with Qualifying Health Assessments Lacking Finished Water Occurrence Data					
3397–62–4	DTXSID1037806	6-Chloro-1,3,5-triazine-2,4-diamine	National Ambient Water	Yes	Yes.
30560–19–1	DTXSID8023846	Acephate	National Ambient Water	Yes	Yes.
84–65–1	DTXSID3020095	Anthraquinone	National Ambient Water	Yes	No.
6190–65–4	DTXSID5037494	Deethylatrazine	National Ambient Water	Yes	No.
3397–62–4	DTXSID0037495	Desisopropyl atrazine	National Ambient Water	Yes	Yes.
333–41–5	DTXSID9020407	Diazinon	National Ambient Water	Yes	Yes.
60–51–5	DTXSID7020479	Dimethoate	National Ambient Water	Yes	Yes.

EXHIBIT 14—DATA AVAILABILITY/INFORMATION FOR THE DRAFT CCL 5 CONTAMINANTS—Continued

CASRN	DTXSID	Common name	Best available occurrence data	Is a health assessment available?	Is an analytical method available?
142459–58–3	DTXSID2032552	Flufenacet (Thiaflumide)	National Ambient Water	Yes	No.
22967–92–6	DTXSID9024198	Methylmercury	National Ambient Water	Yes	No.
13071–79–9	DTXSID2022254	Terbufos	National Ambient Water	Yes	Yes.
126–73–8	DTXSID3021986	Tributyl phosphate (TNBP)	National Ambient Water	Yes	No.
103476–24–0	DTXSID5021411	Tris(2-chloroethyl) phosphate (TCEP)	National Ambient Water	Yes	No.
7440–33–7	DTXSID8052481	Tungsten	National Ambient Water	Yes	No.
107–02–8	DTXSID5020023	Acrolein	National Ambient Water	Yes	Yes.
95–63–6	DTXSID6021402	Trimethylbenzene (1,2,4-)	National Ambient Water	Yes	Yes.
80–05–7	DTXSID7020182	Bisphenol A	National Ambient Water	Yes	No.
143–50–0	DTXSID1020770	Chlordecone (Kepone)[2]	Non-national Ambient Water	Yes	Yes.
741–58–2	DTXSID9032329	Bensulide	Non-national Ambient Water	Yes	Yes.
16752–77–5	DTXSID1022267	Methomyl	Non-National Finished Water	Yes	Yes.
E. Contaminants Lacking Nationally Representative Finished Water Occurrence Data and Qualifying Health Assessments					
104–40–5	DTXSID3021857	4-Nonylphenol (all isomers)	Non-National Finished Water	No	Method in review.
86386–73–4	DTXSID3020627	Fluconazole	Non-National Finished Water	No	No.
93413628	DTXSID40869118	Desvenlafaxine	Non-National Finished Water	No	No.

Key to Exhibit
National = Occurrence data that are nationally representative are available
Non-National = Occurrence data that are not nationally representative are available
Note: Data availability was not assessed for cyanotoxins, DBPs and PFAS.

Contaminants in Group A have nationally representative finished drinking water occurrence data and qualifying health assessments. Contaminants in Group B have finished drinking water occurrence data that is not nationally representative and qualifying health assessments. Contaminants in groups C, D, and E lack either a qualifying health assessment or finished water occurrence data and have more substantial data needs.

In addition, EPA assessed the data availability of the PCCL 5 chemicals that are not included on the Draft CCL 5. For more information on EPA methodology to identify data availability and summary tables, see Section 5.3 of the Chemical Technical Support Document (USEPA, 2021c).

IV. Request for Comments

The purpose of this document is to present the Draft CCL 5. EPA seeks comments on the following:

A. Contaminants selected for the Draft CCL 5, including any supporting data that can be used in developing the Final CCL 5.

B. Data that EPA obtained and evaluated for developing the Draft CCL 5 may be found in the Chemical Technical Support Document and Microbial Technical Support Document located in the docket for this document.

C. The improvements EPA implemented in the CCL 5 process.

EPA will take these comments into consideration when developing future CCLs. EPA will consider all information and comments received in determining the Final CCL 5, in the development of future CCLs, and in the agency's efforts to set drinking water priorities in the future.

V. EPA's Next Steps

Between now and the publication of the Final CCL 5, EPA will evaluate comments received during the public comment period for this document, consult with EPA's Science Advisory Board, and prepare the Final CCL 5 considering this input.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[AU Docket No. 21–284; DA 21–801; FR ID 37717]

Auction of Construction Permits for Low Power Television and TV Translator Stations; Comment Sought on Competitive Bidding Procedures for Auction 111

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; proposed auction procedures.

SUMMARY: The Office of Economics and Analytics and the Media Bureau announce a closed auction of construction permits for new or modified low power television (LPTV) stations and TV translator stations (collectively, LPTV/translator stations). This document seeks comment on the procedures to be used for this auction, which is designated as Auction 111.

DATES: Comments are due on or before August 3, 2021, and reply comments are due on or before August 13, 2021. Bidding in this auction is expected to commence in February 2022.

ADDRESSES: Interested parties may file comments or reply comments in AU Docket No. 21–284. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). All filings in response to the Auction 111 Comment Public Notice must refer to AU Docket No. 21–284.

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS at *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings in response to the Public Notice can be sent by commercial courier or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission
- Commercial deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Dr., Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, or Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and

to mitigate the transmission of COVID–19.

• *Email:* Commenters are asked to also submit a copy of their comments and reply comments electronically to the following address: *auction111@fcc.gov.*

• *People with Disabilities:* To request materials in accessible formats (braille, large print, electronic files, audio format) for people with disabilities, send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT:

Auction legal questions: Lyndsey Grunewald, (202) 418–0660, *Lyndsey.Grunewald@fcc.gov,* or Scott Mackoul, (202) 418–0660, *Scott.Mackoul@fcc.gov.*

General auction questions: Auction Hotline at (717) 338–2868.

LPTV/translator station service questions: Shaun Maher (legal), (202) 418–2324, *Shaun.Maher@fcc.gov,* or Mark Colombo (technical questions), (202) 418–7611, *Mark.Colombo@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice (*Auction 111 Comment Public Notice*), AU Docket No. 21–284, DA 21–801, adopted on July 9, 2021, and released on July 9, 2021. The *Auction 111 Comment Public Notice* includes the following attachments: Attachment A, Construction Permits in Auction 111. The complete text of the *Auction 111 Comment Public Notice,* including its attachments, is available on the Commission's website at *http://www.fcc.gov/auction/111* or by using the search function for AU Docket No. 21–284 on the Commission's ECFS web page at *www.fcc.gov/ecfs.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. Introduction

1. By the *Auction 111 Comment Public Notice,* the Office of Economics and Analytics (OEA) and the Media Bureau (MB), announce a closed auction of construction permits for new or modified low power television (LPTV) stations and TV translator stations (collectively referred to as LPTV/translator stations) and seek comment on the procedures to be used for this auction. The bidding for the auction, which is designated as Auction 111, is expected to commence in February 2022.

2. OEA and MB has sent a copy of the *Auction 111 Comment Public Notice* by email and overnight delivery to the contact address listed on each LPTV/translator station application listed in Attachment A of the *Auction 111 Comment Public Notice.* Future public notices in this proceeding may be provided directly to each applicant listed in Attachment A at this contact address as well. Each applicant is reminded that pursuant to § 1.65 of the Commission's rules, it is obligated to maintain the accuracy of this information. 47 CFR 1.65. OEA and MB ask each party that is eligible to file a short-form application in Auction 111 to make sure that the contact address provided in its LPTV/translator station application is accurate and is a location capable of accepting packages. After the deadline for filing short-form applications (FCC Form 175) to participate in Auction 111, Auction 111-related materials will be sent to auction applicants at the contact addresses in their short-form applications.

II. Construction Permits Offered and Application Processing

A. Construction Permits To Be Offered in Auction 111

3. Auction 111 will resolve groups of pending mutually exclusive (MX) engineering proposals for up to 17 new or modified LPTV/translator station construction permits. Auction 111 is a closed auction; only those individuals or entities listed in Attachment A to the *Auction 111 Comment Public Notice* are eligible to participate in this auction with respect to the construction permit(s) for which each is listed.

4. The MX groups and engineering proposals listed in Attachment A to the *Auction 111 Comment Public Notice* consist of applications for new LPTV/translator stations, or major changes to existing stations, that were accepted on a first-come, first-served basis (*i.e.,* rolling one-day windows), pursuant to § 74.787(a)(3) of the Commission's rules and displacement relief applications filed pursuant to a special filing window for eligible LPTV/translator stations displaced by the broadcast television spectrum incentive auction (Auction 1000). Any LPTV/translator station applications for new facilities, major changes to existing facilities, or displacement relief that are mutually exclusive with one another must be resolved via the Commission's part 1 and part 73 competitive bidding rules. In 2009, MB began accepting applications for new rural digital LPTV/translator stations on a limited basis and then later froze those filings. All but one of the MX groups listed in Attachment A to the *Auction 111 Comment Public Notice* consist of applications for new or modified rural digital LPTV/translator stations that were submitted on the first day that MB began accepting such applications. With regard to the remaining MX group, Auction 1000, which repurposed 84 megahertz of the 600 MHz band spectrum, resulted in the channel reassignments of certain full power and Class A television stations, and in turn displaced certain LPTV/translator stations. In 2018, the Incentive Auction Task Force and MB opened a special displacement application filing window for eligible licensees and permittees of LPTV/translator stations displaced by Auction 1000 to apply for new channels. The remaining MX group listed in Attachment A to the *Auction 111 Comment Public Notice* consists of two displacement relief applications filed pursuant to this special displacement application filing window.

5. In order to facilitate resolution of pending mutually exclusive LPTV/translator station applications before initiating competitive bidding procedures, and given the passage of time since the applications were filed, MB announced that it would withhold action on certain MX applications for new or modified LPTV/translator stations, including each application listed in Attachment A to the *Auction 111 Comment Public Notice,* from June 1, 2020 to July 31, 2020, in order to provide applicants with an opportunity to resolve mutual exclusivity through settlement or technical modification of their engineering proposals. MB advised each applicant that, absent resolution of its mutual exclusivity, its application would be subject to the Commission's competitive bidding procedures.

6. The 17 MX groups listed in Attachment A to the *Auction 111 Comment Public Notice* are the groups of 24 applicants that filed 40 applications that remain MX after the filing window closed, and OEA and MB will now proceed to resolve these mutually exclusive LPTV/translator station proposals by competitive bidding in Auction 111. Attachment A to the *Auction 111 Comment Public Notice* also lists, for each proposal in each MX group, the applicant name, FCC Registration Number (FRN), file number, facility identification number, community of license, and the channel requested in the relevant construction permit application.

B. Application Processing and Limited Auction Settlement Period

7. Attachment A to the *Auction 111 Comment Public Notice* lists the pending LPTV/translator station

applications that will be resolved through Auction 111 unless the applicants resolve their mutual exclusivity by entering into settlement agreements or making minor amendments to their pending applications before the deadline for filing short-form applications (FCC Form 175) to participate in Auction 111, which will be announced in a future public notice. Specifically, if a member of an MX group withdraws its application on its own initiative or files a unilateral engineering amendment, or if members of the MX group enter into and submit a settlement agreement and supporting documentation that the Commission staff determines to be fully in accordance with the Communications Act of 1934, as amended (Act) and the Commission's rules, and such actions completely resolve the mutual exclusivity prior to the short-form application deadline, that MX group will be removed from Auction 111 and the remaining engineering proposal(s) will be processed under standard licensing procedures.

8. Conversely, if an MX group listed in Attachment A to the *Auction 111 Comment Public Notice* remains mutually exclusive as of the short-form application filing deadline, each applicant in that MX group must timely file a short-form application in order to avoid dismissal of its pending LPTV/translator station application. Specifically, if any member of an MX group that remains mutually exclusive as of the short-form application filing deadline fails to submit a timely short-form application, that party will have its pending application for a new or modified LPTV/translator station dismissed for failure to prosecute. Likewise, if only one member of an MX group that remains mutually exclusive as of the short-form application filing deadline submits a short-form application, the MX group will be removed from the auction and the engineering proposal of the party that submitted a short-form application will be treated as a singleton application and processed under standard licensing procedures. If an applicant forgoes filing a short-form application pursuant to an agreement with mutually exclusive applicants, such settlement agreement must be submitted to MB for approval in accordance with § 73.3525 of the Commission's rules.

9. After the short-form application filing deadline, OEA and MB will release a public notice identifying the mutually exclusive applications for Auction 111. As provided in section 73.5002(d) of the Commission's rules, these mutually exclusive applicants will then be given a limited opportunity to resolve mutual exclusivity of the Commission's rules by the filing of technical amendments, dismissal requests, and requests for approval of universal settlements. The specific dates of the settlement period will be announced in the public notice identifying the MX applications, but will only last, at most, two weeks. Due to the Commission's competitive bidding rule prohibiting certain communications, 47 CFR 1.2105(c), applicants in Auction 111 will not be able to communicate after the short-form application deadline with each other for the purpose of resolving conflicts outside of this limited settlement period.

10. An applicant listed in Attachment A to the *Auction 111 Comment Public Notice* may become qualified to bid in Auction 111 only if it complies with the auction filing, qualification, and payment requirements, and otherwise complies with applicable rules, policies, and procedures. Each listed applicant may become a qualified bidder only for those construction permits specified for that applicant in Attachment A to the *Auction 111 Comment Public Notice.* Each of the engineering proposals within each MX group are directly mutually exclusive with one another; therefore, no more than one construction permit will be awarded through Auction 111 for each MX group identified in Attachment A to the *Auction 111 Comment Public Notice.* Under the Commission's established precedent, once two or more short-form applications are accepted for an MX group, mutual exclusivity exists for the relevant construction permit for auction purposes. Unless the mutual exclusivity is resolved during the limited settlement opportunity mentioned above, an applicant in Auction 111 cannot obtain a construction permit without placing a bid, even if no other applicant for that particular construction permit becomes qualified to bid or in fact places a bid.

III. Implementation of Part 1 and Part 73 Competitive Bidding Rules and Requirements

11. Consistent with the provisions of section 309(j)(3)(E)(i) of the Act, and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, OEA and MB seek comment on a variety of auction-specific procedures relating to the conduct of Auction 111.

12. The Commission's part 1 and part 73 competitive bidding rules require each applicant seeking to bid to acquire a construction permit in a broadcast auction to provide certain information in a short-form application (FCC Form 175), including ownership details and numerous certifications. The competitive bidding rules in part 1, subpart Q, and part 73 also contain a framework for the implementation of a competitive bidding design, application and certification procedures, reporting requirements, and the prohibition of certain communications.

A. Upfront Payments and Bidding Eligibility

13. In keeping with the usual practice in spectrum auctions, OEA and MB propose that applicants be required to submit upfront payments as a prerequisite to becoming qualified to bid. An upfront payment is a refundable deposit made by an applicant to establish its eligibility to bid on construction permits. Upfront payments that are related to the specific construction permits being auctioned protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the bidding. As required by 47 CFR 1.2106(a), a former defaulter must submit an upfront payment equal to 50% more than the amount that would otherwise be required.

14. OEA and MB seek comment on an appropriate upfront payment for each construction permit being auctioned, taking into account such factors as the efficiency of the auction process and the potential value of similar construction permits. With these considerations in mind, OEA and MB propose the upfront payments set forth in Attachment A to the *Auction 111 Comment Public Notice* and seek comment on those proposed upfront payment amounts.

15. OEA and MB further propose that the amount of the upfront payment submitted by an applicant will determine its initial bidding eligibility in bidding units, which are a measure of bidder eligibility and bidding activity. OEA and MB propose to assign each construction permit a specific number of bidding units, equal to one bidding unit per dollar of the upfront payment listed in Attachment A to the *Auction 111 Comment Public Notice.* The number of bidding units for a given construction permit is fixed and does not change during the auction as prices change. If an applicant is found to be qualified to bid on more than one permit being offered in Auction 111, such bidder may place bids on multiple construction permits, provided that the total number of bidding units associated with those construction permits does not exceed that bidder's current

eligibility. A bidder cannot increase its eligibility during the auction; it can only maintain its eligibility or decrease its eligibility. In calculating its upfront payment amount and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid (or hold provisionally winning bids) in any single round and submit an upfront payment amount covering that total number of bidding units. OEA and MB request comment on these proposals.

B. Reserve Price or Minimum Opening Bids

16. As part of the pre-bidding process for each auction, OEA and MB seek comment on the use of a minimum opening bid amount and/or reserve price, as mandated by section 309(j) of the Act. OEA and MB propose to establish minimum opening bid amounts for Auction 111. Based on its experience in past broadcast auctions, the Commission has found that setting a minimum opening bid amount judiciously is an effective bidding tool for accelerating the competitive bidding process. In the last auction of LPTV construction permits (Auction 104), OEA and MB similarly proposed establishing minimum opening bids and not reserve prices; no comments opposed that proposal, and it was adopted. Based on all of these facts, OEA and MB propose establishing minimum opening bids for Auction 111. OEA and MB do not propose to establish separate reserve prices for any of the construction permits to be offered in Auction 111 nor do they see any reason to propose an aggregate reserve price for the auction.

17. For auctions of broadcast permits, the Commission generally proposes minimum opening bid amounts determined by taking into account the type of service and class of facility offered, market size, population covered by the proposed broadcast facility, and recent broadcast transaction data, to the extent such information is available. Consideration of such factors for Auction 111 is complicated by a dearth of such transaction data, the fact that a permittee may opt to switch its intended use of such facility from LPTV to translator operation, or vice versa, and the lack of accurate data on the population that would be covered by each proposed facility. In Auction 104, the last auction of LPTV construction permits, OEA and MB proposed minimum opening bid amounts based on the limited information available, and received no comments suggesting changes to the minimum opening bid amounts. OEA and MB followed a similar methodology used in Auction 104 to set the minimum opening bid amounts proposed in Attachment A to the *Auction 111 Comment Public Notice* for each construction permit available in Auction 111. OEA and MB seek comment on the minimum opening bid amounts specified in Attachment A to the *Auction 111 Comment Public Notice.*

18. If commenters believe that these minimum opening bid amounts will result in unsold construction permits or are not reasonable amounts at which to start bidding, they should explain why this is so and comment on the desirability of an alternative approach. Commenters should support their claims with valuation analyses and suggested amounts or formulas. In establishing the minimum opening bid amounts, OEA and MB particularly seek comment on factors that could reasonably have an impact on bidders' valuation of the broadcast spectrum, including the type of service and class of facility offered, market size, population covered by the proposed broadcast facility and any other relevant factors. Commenters also may wish to address the general role of minimum opening bids in managing the pace of the auction. For example, commenters could compare using minimum opening bids—*e.g.,* by setting higher minimum opening bids to reduce the number of rounds it takes for construction permits to reach their final prices—to other means of controlling auction pace, such as changes to bidding schedules, percentage increments, or activity requirements.

C. Auction Delay, Suspension, or Cancellation

19. For Auction 111, OEA and MB propose that at any time before or during the bidding process they may delay, suspend, or cancel bidding in the auction in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. Notification of any such delay, suspension, or cancellation will be provided by public notice or through the FCC auction bidding system's messages function. If bidding is delayed or suspended, the auction may resume starting from the beginning of the current round or from some previous round, or the auction may be cancelled in its entirety. This authority will be exercised solely at the discretion of OEA and MB, and not as a substitute for situations in which bidders may wish to apply activity rule waivers. OEA and MB seek comment on this proposal.

D. Interim Withdrawal Payment Percentage

20. As discussed below, OEA and MB propose not to allow bid withdrawals in Auction 111. In the event bid withdrawals are permitted in Auction 111, however, OEA and MB propose the interim bid withdrawal payment be 20% of the withdrawn bid. A bidder that withdraws a provisionally winning bid during an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or a subsequent auction. 47 CFR 1.2104(g)(1). However, if a construction permit for which a bid has been withdrawn does not receive a subsequent higher bid or winning bid in the same auction, the Commission cannot calculate the final withdrawal payment until that construction permit receives a higher bid or winning bid in a subsequent auction. In such cases, when that final withdrawal payment cannot yet be calculated, the Commission imposes on the bidder responsible for the withdrawn bid an interim bid withdrawal payment, which will be applied toward any final bid withdrawal payment that is ultimately assessed.

21. The percentage amount of the interim bid withdrawal payment is established in advance of bidding in each auction and may range from 3% to 20% of the withdrawn bid amount. The Commission has determined that the level of interim withdrawal payment in a particular auction will be based on the nature of the service and the inventory of the licenses being offered. The Commission noted specifically that a higher interim withdrawal payment percentage is warranted to deter the anti-competitive use of withdrawals when, for example, bidders will not need to aggregate the licenses being offered in the auction or when there are few synergies to be captured by combining licenses. In light of these considerations with respect to the construction permits being offered in this auction, OEA and MB propose to use the maximum interim bid withdrawal payment percentage permitted by § 1.2104(g)(1) in the event bid withdrawals are allowed in this auction. OEA and MB request comment on using 20% for calculating an interim bid withdrawal payment amount in Auction 111 in the event that bidders would be permitted to withdraw bids. Commenters advocating the use of bid withdrawals should also address the

percentage of the interim bid withdrawal payment.

E. Deficiency Payments and Additional Default Payment Percentage

22. Any winning bidder that defaults or is disqualified after the close of an auction (*i.e.,* fails to remit the required down payment by the specified deadline, fails to make full and timely final payment, fails to submit a timely long-form application, or whose long-form application is not granted for any reason, or is otherwise disqualified) is liable for a default payment under § 1.2104(g)(2) of the rules. This payment consists of a deficiency payment, equal to the difference between the amount of the Auction 111 bidder's winning bid and the amount of the winning bid the next time a construction permit covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

23. The Commission's rules provide that, in advance of each auction, it will establish a percentage between 3% and 20% of the applicable winning bid to be assessed as an additional default payment. As the Commission has indicated, the level of this additional payment in each auction will be based on the nature of the service and the construction permits being offered.

24. For Auction 111, OEA and MB propose to establish an additional default payment of 20%, which is consistent with the percentage in prior auctions of broadcast construction permits. As the Commission has noted, defaults weaken the integrity of the auction process and may impede the deployment of service to the public, and an additional 20% default payment will be more effective in deterring defaults than the 3% used in some earlier auctions. In light of these considerations, OEA and MB propose for Auction 111 an additional default payment of 20% of the relevant bid. OEA and MB seek comment on this proposal.

IV. Proposed Bidding Procedures

A. Simultaneous Multiple-Round Auction Design

25. OEA and MB propose to use the Commission's simultaneous multiple-round auction format for Auction 111. As described further below, this type of auction offers every construction permit for bid at the same time and consists of successive bidding rounds in which qualified bidders may place bids on individual construction permits. Typically, bidding remains open on all construction permits until bidding stops on every construction permit. OEA and MB seek comment on this proposal.

B. Bidding Rounds

26. The Commission will conduct Auction 111 over the internet using the FCC auction bidding system. A bidder will also have the option of placing bids by telephone through a dedicated auction bidder line.

27. Under this proposal, Auction 111 will consist of sequential bidding rounds, each followed by the release of round results. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of bidding. Details on viewing round results, including the location and format of downloadable round results files, will be included in the same public notice.

28. OEA and MB propose that the initial bidding schedule may be adjusted in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. Under this proposal, such changes may include the amount of time for the bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors. OEA and MB seek comment on this proposal. Commenters on this issue should address the role of the bidding schedule in managing the pace of the auction, specifically discussing the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirement(s) or bid amount parameters, or by using other means.

C. Stopping Rule

29. OEA and MB have discretion to establish stopping rules before or during multiple round auctions in order to complete the auction within a reasonable time. 47 CFR 1.2104(e). For Auction 111, OEA and MB propose to employ a simultaneous stopping rule approach, which means all construction permits remain available for bidding until bidding stops on every construction permit. Specifically, bidding will close on all construction permits after the first round in which no bidder submits any new bid, applies a proactive activity rule waiver, or withdraws any provisionally winning bid (if bid withdrawals are permitted in this auction). Thus, under the proposed simultaneous stopping rule, bidding would remain open on all construction permits until bidding stops on every construction permit. Consequently, under this approach, it is not possible to determine in advance how long the bidding in this auction will last.

30. Further, OEA and MB propose to retain the discretion to exercise any of the following stopping options during Auction 111: (1) The auction would close for all construction permits after the first round in which no bidder applies a waiver, no bidder withdraws a provisionally winning bid (if withdrawals are permitted in this auction), or no bidder places any new bid on a construction permit for which it is not the provisionally winning bidder. Absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule; (2) the auction would close for all construction permits after the first round in which no bidder applies a waiver, no bidder withdraws a provisionally winning bid (if withdrawals are permitted in this auction), or no bidder places any new bid on a construction permit that already has a provisionally winning bid. Absent any other bidding activity, a bidder placing a new bid on an FCC-held construction permit (a construction permit that does not already have a provisionally winning bid) would not keep the auction open under this modified stopping rule; (3) the auction would close using a modified version of the simultaneous stopping rule that combines (1) and (2); (4) the auction would close after a specified number of additional rounds (special stopping rule) to be announced in advance in the FCC auction bidding system. If this special stopping rule is invoked, bids will be accepted in the specified final round(s), after which the auction will close; and (5) the auction would remain open even if no bidder places any new bid, applies a waiver, or withdraws any provisionally winning bid (if withdrawals are permitted in this auction). In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a waiver.

31. OEA and MB propose to exercise these options only in certain circumstances, for example, where the auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. Before exercising these options, OEA and MB are likely to attempt to change the pace of the auction. For example, the pace of bidding may be adjusted by changing

the number of bidding rounds per day or the minimum acceptable bids. OEA and MB propose to retain the discretion to exercise any of these options with or without prior announcement during the auction. OEA and MB seek comment on these proposals. Commenters should provide specific reasons for supporting or objecting to these proposals.

D. Activity Rule

32. To ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. For purposes of the activity rule, the FCC auction bidding system calculates a bidder's activity in a round as the sum of the bidding units associated with any construction permits upon which it places bids during the current round and the bidding units associated with any construction permits for which it holds provisionally winning bids. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. OEA and MB propose a single-stage auction with a 100% activity requirement. That is, in each bidding round, a bidder desiring to maintain its current bidding eligibility will be required to be active on 100% of its bidding eligibility. Thus, the activity requirement would be satisfied when a bidder has bidding activity on construction permits with bidding units that total 100% of its current eligibility in the round. If the activity rule is met, then the bidder's eligibility does not change in the next round. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility for the next round of bidding, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction. OEA and MB seek comment on these activity requirements. Commenters that oppose a 100% activity requirement are encouraged to explain their reasons with specificity.

E. Activity Rule Waivers and Reducing Eligibility

33. For the proposed simultaneous multiple-round auction format, OEA and MB propose that when a bidder's activity in the current round is below the required minimum level, it may preserve its current level of eligibility through an activity rule waiver, if the bidder has any available. Consistent with prior Commission auctions of broadcast construction permits, OEA and MB propose that each bidder in Auction 111 be provided with three activity rule waivers that may be used as set forth below at the bidder's discretion during the course of the auction.

34. An activity rule waiver applies to an entire round of bidding, not to a particular construction permit. Activity rule waivers can be either proactive or automatic. Activity rule waivers are primarily a mechanism for a bidder to avoid the loss of bidding eligibility in the event that exigent circumstances prevent it from bidding in a particular round.

35. The FCC auction bidding system will assume that a bidder that does not meet the activity requirement would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder's activity level is below the minimum required unless: (1) The bidder has no activity rule waiver remaining; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the activity requirement. If a bidder has no waivers remaining and does not satisfy the required activity level, the bidder's current eligibility will be permanently reduced, possibly curtailing or eliminating the ability to place additional bids in the auction.

36. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the reduce eligibility function in the FCC auction bidding system. In this case, the bidder's eligibility would be permanently reduced to bring it into compliance with the activity rule described above. Reducing eligibility is an irreversible action; once eligibility has been reduced, a bidder cannot regain its lost bidding eligibility.

37. Under the proposed simultaneous stopping rule, a bidder would be permitted to apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity rule waiver (using the proactive waiver function in the FCC auction bidding system) during a bidding round in which no bid is placed or withdrawn (if bid withdrawals are permitted in this auction), the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver applied by the FCC auction bidding system in a round in which there is no new bid, no bid withdrawal (if bid withdrawals are permitted in this auction), or no proactive waiver would not keep the auction open. OEA and MB seek comment on these proposals.

F. Bid Amount

38. OEA and MB propose that, in each round, a qualified bidder will be able to place a bid on a given construction permit in any of up to nine different amounts: The minimum acceptable bid amount or one of the additional bid amounts. Bidders must have sufficient eligibility to place a bid on the particular construction permit.

39. *Minimum Acceptable Bid Amounts.* The first of the acceptable bid amounts is called the minimum acceptable bid amount. The minimum acceptable bid amount for a construction permit will be equal to its minimum opening bid amount until there is a provisionally winning bid for the construction permit. Once there is a provisionally winning bid for a construction permit, the minimum acceptable bid amount for that construction permit will be equal to the amount of the provisionally winning bid plus a specified percentage of that bid amount. The percentage used for this calculation, the minimum acceptable bid increment percentage, is multiplied by the provisionally winning bid amount, and the resulting amount is added to the provisionally winning bid amount. If, for example, the minimum acceptable bid increment percentage is 10%, then the provisionally winning bid amount is multiplied by 10%. The result of that calculation is added to the provisionally winning bid amount, and that sum is rounded using the Commission's standard rounding procedure for auctions as described in the *Auction 111 Comment Public Notice.* If bid withdrawals are permitted in this auction, in the case of a construction permit for which the provisionally winning bid has been withdrawn, the minimum acceptable bid amount will equal the second highest bid received for the construction permit.

40. *Additional Bid Amounts.* Under this proposal, the Commission will calculate the eight additional bid amounts using the minimum acceptable bid amount and an additional bid increment percentage. The minimum acceptable bid amount is multiplied by the additional bid increment percentage, and that result (rounded) is the additional increment amount. The first additional acceptable bid amount equals the minimum acceptable bid amount plus the additional increment amount. The second additional acceptable bid amount equals the minimum acceptable

bid amount plus two times the additional increment amount; the third additional acceptable bid amount is the minimum acceptable bid amount plus three times the additional increment amount; etc. If, for example, the additional bid increment percentage is 5%, then the calculation of the additional increment amount would be (minimum acceptable bid amount) * (0.05), rounded. The first additional acceptable bid amount equals (minimum acceptable bid amount) + (additional increment amount); the second additional acceptable bid amount equals (minimum acceptable bid amount) + (2*(additional increment amount)); the third additional acceptable bid amount equals (minimum acceptable bid amount) + (3*(additional increment amount)); etc.

41. For Auction 111, OEA and MB propose to use a minimum acceptable bid increment percentage of 10%. This means that the minimum acceptable bid amount for a construction permit will be approximately 10% greater than the provisionally winning bid amount for the construction permit. To calculate the additional acceptable bid amounts, OEA and MB propose to use a bid increment percentage of 5%. OEA and MB seek comment on these proposals.

42. *Bid Amount Changes.* OEA and MB propose to retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the additional bid increment percentage, and the number of acceptable bid amounts if, consistent with past practice, circumstances so dictate. OEA and MB propose to retain the discretion to do so on a construction permit-by-construction permit basis. OEA and MB also propose to retain the discretion to limit (a) the amount by which a minimum acceptable bid for a construction permit may increase compared with the corresponding provisionally winning bid, and (b) the amount by which an additional bid amount may increase compared with the immediately preceding acceptable bid amount. For example, a $1,000 limit could be set on increases in minimum acceptable bid amounts over provisionally winning bids. In this example, if calculating a minimum acceptable bid using the minimum acceptable bid increment percentage results in a minimum acceptable bid amount that is $1,200 higher than the provisionally winning bid on a construction permit, the minimum acceptable bid amount would instead be capped at $1,000 above the provisionally winning bid. OEA and MB seek comment on the circumstances that would call for employing such a limit, factors to consider when determining the dollar amount of the limit, and the tradeoffs in setting such a limit or changing other parameters, such as changing the minimum acceptable bid percentage, the bid increment percentage, or the number of acceptable bid amounts. If OEA and MB exercise this discretion, bidders would be notified by announcement in the FCC auction bidding system during the auction.

43. OEA and MB seek comment on these proposals. If commenters disagree with the proposal to begin the auction with nine acceptable bid amounts per construction permit, they should suggest an alternative number of acceptable bid amounts to use. Commenters may wish to address the role of the minimum acceptable bids and the number of acceptable bid amounts in managing the pace of the auction and the tradeoffs in managing auction pace by changing the bidding schedule, activity requirement, bid amounts, or by using other means.

G. Provisionally Winning Bids

44. The FCC auction bidding system will determine provisionally winning bids consistent with practice in past auctions. At the end of a bidding round, the bidding system will determine a provisionally winning bid for each construction permit based on the highest bid amount received for that permit. The FCC auction bidding system will advise bidders of the status of their bids when round results are released. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same construction permit at the close of a subsequent round, unless the provisionally winning bid is withdrawn (if bid withdrawals are permitted in this auction). Provisionally winning bids at the end of the auction become the winning bids. As a reminder, provisionally winning bids count toward activity for purposes of the activity rule.

45. The FCC auction bidding system assigns a pseudo-random number generated by an algorithm to each bid when the bid is entered. If identical high bid amounts are submitted on a construction permit in any given round (*i.e.,* tied bids), the FCC auction bidding system will use a pseudo-random number generator to select a single provisionally winning bid from among the tied bids. The tied bid with the highest pseudo-random number wins the tiebreaker and becomes the provisionally winning bid. The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid. If the construction permit receives any bids in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the construction permit.

H. Bid Removal and Bid Withdrawal

46. *Bid Removal.* The FCC auction bidding system allows each bidder to remove any of the bids it placed in a round before the close of that round. By removing a bid placed within a round, a bidder effectively unsubmits the bid. In contrast to the bid withdrawal provisions described below, a bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid. Consistent with the design of the bidding system, bidders in Auction 111 would be permitted to remove bids placed in a round before the close of that round.

47. *Bid Withdrawal.* OEA and MB propose not to permit bidders in Auction 111 to withdraw bids. When permitted in an auction, bid withdrawals provide a bidder with the option of withdrawing bids placed in prior rounds that have become provisionally winning bids. A bidder would be able to withdraw its provisionally winning bids using the withdraw function in the FCC auction bidding system. A bidder that withdraws its provisionally winning bid(s), if permitted, is subject to the bid withdrawal payment provisions of the Commission's rules. 47 CFR 1.2104(g), 1.2109.

48. The Commission has recognized that bid withdrawals may be a helpful tool in certain circumstances for bidders seeking to efficiently aggregate licenses or implement backup strategies. The Commission has also acknowledged that allowing bid withdrawals may encourage insincere bidding or increased opportunities for undesirable strategic bidding in certain circumstances. The Commission stated that this discretion should be exercised assertively, with consideration of limiting the number of rounds in which bidders may withdraw bids, and preventing bidders from bidding on a particular market if a bidder is abusing the Commission's bid withdrawal procedures. In managing the auction, therefore, OEA and MB have discretion to limit the number of withdrawals to prevent bidding abuses.

49. Based on this guidance and on experience with past auctions of

broadcast construction permits, OEA and MB propose to prohibit bidders from withdrawing any bid after the close of the round in which that bid was placed. OEA and MB make this proposal in light of the site-specific nature and wide geographic dispersion of the permits available in this auction, which suggests that potential applicants for this auction may have fewer incentives to aggregate permits through the auction process (as compared with bidders in many auctions of wireless licenses). Thus, OEA and MB believe that it is unlikely that bidders will have a need to withdraw bids in this auction. Further, bid withdrawals, particularly if they were made late in this auction, could result in delays in licensing new broadcast stations and attendant delays in the offering of new broadcast service to the public. OEA and MB comment on this proposal to prohibit bid withdrawals in Auction 111. Commenters advocating alternative approaches should support their arguments by taking into account the construction permits offered, the impact of auction dynamics and the pricing mechanism, and the effects on the bidding strategies of other bidders.

V. Tutorial and Additional Information for Applicants

50. The Commission intends to provide additional information on the bidding system and to offer demonstrations and other educational opportunities for applicants in Auction 111 to familiarize themselves with the FCC auction application system and the auction bidding system. For example, OEA and MB intend to release an online tutorial that will help applicants understand the procedures to be followed in the filing of their auction short-form applications (FCC Form 175) and on the bidding procedures for Auction 111.

VI. Procedural Matters

A. Paperwork Reduction Act

51. The Office of Management and Budget (OMB) has approved the information collections in the Application to Participate in an FCC Auction, FCC Form 175, OMB Control No. 3060–0600. The *Auction 111 Comment Public Notice* does not propose new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

B. Supplemental Initial Regulatory Flexibility Analysis

52. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission prepared Initial Regulatory Flexibility Analyses (IRFAs) in connection with the *Broadcast Competitive Bidding Notice of Proposed Rulemaking* (NPRM), 62 FR 65392, December 12, 1997, and other Commission NPRMs (collectively, *Competitive Bidding NPRMs*) pursuant to which Auction 111 will be conducted. Final Regulatory Flexibility Analyses (FRFAs) likewise were prepared in the *Broadcast Competitive Bidding Order,* 63 FR 48615, September 11, 1998, and other Commission rulemaking orders (collectively, *Competitive Bidding Orders*) pursuant to which Auction 111 will be conducted. The Office of Economics and Analytics (OEA), in conjunction with the Media Bureau (MB), has prepared a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the *Auction 111 Comment Public Notice,* to supplement the Commission's Initial and Final Regulatory Flexibility Analyses completed in the *Competitive Bidding NPRMs* and the *Competitive Bidding Orders* pursuant to which Auction 111 will be conducted. Written public comments are requested on the Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same filing deadlines for comments specified in the **DATES** section of this document. The Commission will send a copy of the *Auction 111 Comment Public Notice,* including the Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

53. *Need for, and Objectives of, the Public Notice.* The proposed procedures for the conduct of Auction 111 as described in the *Auction 111 Comment Public Notice* would constitute the more specific implementation of the competitive bidding rules contemplated by parts 1 and 73 of the Commission's rules, adopted by the Commission in multiple notice-and-comment rulemaking proceedings, including the Commission's establishing in the underlying rulemaking orders additional procedures to be used on delegated authority. More specifically, the *Auction 111 Comment Public Notice* seeks comment on proposed procedures, terms and conditions governing Auction 111, and the post-auction application and payment processes, as well as seeking comment on the minimum opening bid amounts for the specified construction permits, and is fully consistent with the underlying rulemaking orders, including the *Broadcast Competitive Bidding Order* and other relevant competitive bidding orders.

54. The *Auction 111 Comment Public Notice* provides notice of proposed auction procedures and adequate time for Auction 111 applicants to comment on those proposed procedures. To promote the efficient and fair administration of the competitive bidding process for all Auction 111 participants, including small businesses, the *Auction 111 Comment Public Notice* seeks comment on the following proposed procedures: Establishment of an interim bid withdrawal percentage of 20% of the withdrawn bid in the event bid withdrawals are allowed in Auction 111; Establishment of an additional default payment of 20% under § 1.2104(g)(2) in the event that a winning bidder defaults or is disqualified after the auction; use of a simultaneous multiple-round auction format, consisting of sequential bidding rounds with a simultaneous stopping rule (with discretion to exercise alternative stopping rules under certain circumstances); retention by OEA, in conjunction with MB, to exercise its discretion to delay, suspend, or cancel bidding in Auction 111 for any reason that affects the ability of the competitive bidding process to be conducted fairly and efficiently; retention by OEA of discretion to adjust the bidding schedule in order to manage the pace of Auction 111; a specific minimum opening bid amount for each construction permit available in Auction 111; a specific number of bidding units for each construction permit; a specific upfront payment amount for each construction permit; establishment of a bidder's initial bidding eligibility in bidding units based on that bidder's upfront payment through assignment of a specific number of bidding units for each construction permit; use of an activity requirement so that bidders must bid actively during the auction rather than waiting until late in the auction before participating; a single stage auction in which a bidder is required to be active on 100% of its bidding eligibility in each round of the auction; provision of three activity waivers for each qualified bidder to allow it to preserve eligibility during the course of the auction; use of minimum

acceptable bid amounts and additional bid increments, along with a proposed methodology for calculating such amounts, while retaining discretion to change their methodology if circumstances dictate; bid removal procedures; and proposal to allow for bid removals (before the close of a bidding round) but not allow bid withdrawals (after the close of a bidding round).

55. *Legal Basis.* The Commission's statutory obligations to small businesses participating in a spectrum auction under the Act are found in sections 309(j)(3)(B) and 309(j)(4)(D). The statutory basis for the Commission's competitive bidding rules is found in various provisions of the Act, including 47 U.S.C. 154(i), 301, 303(e), 303(f), 303(r), 304, 307, and 309(j). The Commission has established a framework of competitive bidding rules pursuant to which it has conducted auctions since the inception of the auction program in 1994 and would conduct Auction 111. The Commission has directed that OEA and MB, under delegated authority, seek comment on a variety of auction-specific procedures prior to the start of bidding in each auction.

56. *Description and Estimate of the Number of Small Entities to Which the Proposed Procedures Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed procedures, if adopted. The RFA generally defines the term small entity as having the same meaning as the terms small business, small organization, and small government jurisdiction. 5 U.S.C. 601(6). In addition, the term small business has the same meaning as the term small business concern under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated, (2) is not dominant in its field of operation, and (3) satisfies any additional criteria established by the SBA. 15 U.S.C. 632.

57. The specific procedures and minimum opening bid amounts on which comment is sought in the *Auction 111 Comment Public Notice* will directly affect all applicants participating in Auction 111, in which applicant eligibility is closed. Therefore, the specific competitive bidding procedures and minimum opening bid amounts described in the *Auction 111 Comment Public Notice* will affect only the 24 individuals and entities listed in Attachment A to the *Auction 111 Comment Public Notice* and that are the only parties eligible to complete the remaining steps to become qualified to bid in Auction 111. These specific 24 Auction 111 individuals and entities include firms of all sizes.

58. The Television Broadcasting Economic Census category comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. 13 CFR 121.201, NAICS Code 515120. The 2012 Economic Census reports that 751 firms in this category operated that entire year. Of that number, 656 had annual receipts of $25,000,000 or less, and 25 had annual receipts between $25,000,000 and $49,999,999. Based on this data OEA and MB therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

59. Additionally, the Commission has estimated the number of licensed commercial television stations to be 1,374. Of this total, 1,269 stations (or about 92.5%) had revenues of $41.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) in April 20, 2021 and therefore these stations qualify as small entities under the SBA definition.

60. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 384. These stations are non-profit, and therefore considered to be small entities.

61. There are also 2,371 LPTV stations, including Class A stations, and 3,306 TV translators. Given the nature of these services, OEA and MB presume that all of these entities qualify as small entities under the SBA small business size standard.

62. The SBA size standard data, however, does not enable a meaningful estimate of the number of small entities that may participate in Auction 111.

63. In assessing whether a business entity qualifies as small under the SBA definition, 13 CFR 121.103(a)(1), business control affiliations must be included. Business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. This estimate therefore likely overstates the number of small entities that might be affected by this auction because the revenue figures on which this estimate is based does not include or aggregate revenues from affiliated companies. Moreover, the definition of small business also requires that an entity not be dominant in its field of operation and that the entity be independently owned and operated. The estimate of small businesses to which Auction 111 competitive bidding rules may apply does not exclude any television station from the definition of a small business on these bases and is therefore over-inclusive to that extent. Furthermore, OEA and MB are unable at this time to define or quantify the criteria that would establish whether a specific LPTV station or TV translator is dominant in its field of operation.

64. Further, it is not possible to accurately develop an estimate of how many of the 24 entities in this auction are small businesses based on the number of small entities that applied to participate in prior broadcast auctions, because that information is not collected from applicants for broadcast auctions in which bidding credits are not based on an applicant's size (as is the case in auctions of licenses for wireless services). OEA and MB conclude, however, that the majority of Auction 111 eligible bidders would likely meet the SBA's definition of a small business concern.

65. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* The Commission designed the auction application process itself to minimize reporting and compliance requirements for applicants, including small business applicants. To participate in this auction parties will file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on an applicant's short-form application and certifications, as well as its upfront payment. In the second phase of the process, there are additional compliance requirements for winning bidders. Thus, a small business that fails to become a winning bidder does not need to satisfy additional requirements of a winning bidder.

66. OEA and MB do not expect the processes and procedures proposed in the *Auction 111 Comment Public Notice* will require small entities to hire attorneys, engineers, consultants, or other professionals to participate in

Auction 111 and comply with the procedures ultimately adopted because of the information, resources, and guidance the Commission makes available to potential and actual participants. For example, the Commission intends to release an online tutorial that will help applicants understand the procedures for filing the auction short-form application (FCC Form 175). The Commission also intends to make information on the bidding system available and to offer demonstrations and other educational opportunities for applicants in Auction 111 to familiarize themselves with the FCC auction application system and the auction bidding system. By providing these resources as well as the resources discussed below, OEA and MB expect small business entities who use the available resources to experience lower participation and compliance costs. Nevertheless, while OEA and MB cannot quantify the cost of compliance with the proposed procedures, they do not believe that the costs of compliance will unduly burden small entities that choose to participate in the auction because the proposals for Auction 111 are similar in many respects to the procedures in recent auctions conducted by the Commission.

67. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities. 5 U.S.C. 603(c)(1)–(4).

68. The Commission has taken steps to minimize any economic impact of its auction procedures on small businesses through, among other things, the many resources it provides potential auction participants. Small entities and other auction participants may seek clarification of or guidance on complying with competitive bidding rules and procedures, reporting requirements, and the FCC's auction bidding system. An FCC Auctions Hotline provides access to Commission staff for information about the auction process and procedures. The FCC Auctions Technical Support Hotline is another resource which provides technical assistance to applicants, including small entities, on issues such as access to or navigation within the electronic FCC Form 175 and use of the FCC's auction bidding system. Small entities may also use the web-based, interactive online tutorial produced by Commission staff to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to an auction.

69. The Commission also makes various databases and other sources of information, including the Auctions program websites and copies of Commission decisions, available to the public without charge, providing a low-cost mechanism for small entities to conduct research prior to and throughout the auction. Prior to and at the close of Auction 111, the Commission will post public notices on the Auctions website, which articulate the procedures and deadlines for the auction. The Commission makes this information easily accessible and without charge to benefit all Auction 111 applicants, including small entities, thereby lowering their administrative costs to comply with the Commission's competitive bidding rules.

70. Prior to the start of bidding, eligible bidders will be given an opportunity to become familiar with auction procedures and the bidding system by participating in a mock auction. Further, the Commission intends to conduct Auction 111 electronically over the internet using its web-based auction system that eliminates the need for bidders to be physically present in a specific location. Qualified bidders also have the option to place bids by telephone. These mechanisms are made available to facilitate participation in Auction 111 by all eligible bidders and may result in significant cost savings for small business entities that use these alternatives. Moreover, the adoption of bidding procedures in advance of the auction, consistent with statutory directive, is designed to ensure that the auction will be administered predictably and fairly for all participants, including small entities.

71. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

C. Deadlines and Filing Procedures

72. Interested parties may file comments or reply comments on or before the dates indicated in the **DATES** section of this summary in AU Docket No. 21–248. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

73. *Ex Parte Requirements.* This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200(a), 1.1206. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to the Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the Electronic Comment Filing System available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

William W. Huber,

Associate Chief, Auctions Division, Office of Economics and Analytics.

[FR Doc. 2021–15146 Filed 7–16–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 90, and 95

[ET Docket No. 19–138; Report No. 3176; FR ID 37402]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration; correction.

SUMMARY: The Federal Communications Commission (Commission) published a document in the **Federal Register** of July 7, 2021, regarding three Petitions for Reconsideration (Petitions) filed in the Commission's rulemaking proceeding. The document did not address the withdrawal of one of those petitions. This document corrects that error.

DATES: Oppositions to the Petitions must be filed on or before July 22, 2021. Replies to an opposition must be filed on or before August 2, 2021.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jamie Coleman, Office of Engineering and Technology, (202) 418–2705 or *Jamie.Coleman@fcc.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 21–14494, appearing on page 35700 in the **Federal Register** on July 7, 2021, the following correction is made:

On page 35700, in the first column, the summary is corrected to read ''SUMMARY: Petitions for Reconsideration (Petitions) have been filed in the Commission's rulemaking proceeding by Sean T. Conway, on behalf of 5G Automotive Association, and Hilary Cain, on behalf of The Alliance for Automotive Innovation. A third Petition for Reconsideration, filed by Julian Gehman on behalf of The Amateur Radio Emergency Data Network, was withdrawn on June 21, 2021.''

Dated: July 7, 2021.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–15076 Filed 7–16–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket No. 20–74, GN Docket No. 16–142; Report No. 3177; FRS 37431]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: Petitions for Reconsideration (Petitions) have been filed in the Commission's rulemaking proceeding by Paul Margie, Paul Caritj, and Jason Neal, Harris, Wiltshire & Grannis LLP, on behalf of Microsoft Corporation.

DATES: Oppositions to the Petition must be filed on or before August 3, 2021. Replies to an opposition must be filed on or before August 13, 2021.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ty Bream, Media Bureau, Industry Analysis Division, (202) 418–0644 or *ty.bream@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3177, released June 23, 2021. The full text of the Petition can be accessed online via the Commission's Electronic Comment Filing System at: *http://apps.fcc.gov/ecfs/.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Rules Governing the Use of Distributed Transmission System Technologies; Authorizing Permissive Use of the ''Next Generation'' Broadcast Television Standard, FCC 21–21, 86 FR 21217, released January 19, 2021, MB Docket No. 20–74; GN Docket No. 16–142. This document is being published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1) and 1.429(f), (g).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–15077 Filed 7–16–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 210712–0146]

RIN 0648–BH65

Pacific Island Fisheries; Modifications to the American Samoa Longline Fishery Limited Entry Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to modify the American Samoa longline fishery limited entry program to consolidate vessel class sizes, modify permit eligibility requirements, and reduce the minimum harvest requirements for small vessels. The intent of this proposed rule is to reduce regulatory barriers that may be limiting small vessel participation in the fishery, and provide for sustained community and indigenous American Samoan participation in the fishery. This proposed rule also makes several administrative updates to remove outdated regulations.

DATES: NMFS must receive comments by September 2, 2021.

ADDRESSES: You may submit comments on this proposed rule, identified by NOAA–NMFS–2018–0023, by either of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov* and enter NOAA–NMFS–2018–0023 in the Search box, click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record, and NMFS will generally post them for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will

be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

The Western Pacific Fishery Management Council (Council) prepared Amendment 9, which includes a draft environmental assessment (EA) and Regulatory Impact Review. Copies of Amendment 9 and other supporting documents are available at *https://www.regulations.gov,* or from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, *www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Kate Taylor, NMFS PIR Sustainable Fisheries, 808–725–5182.

SUPPLEMENTARY INFORMATION: The Council and NMFS manage the American Samoa longline fishery under the FEP and implementing Federal regulations. The fishery primarily targets albacore, which are sold frozen to the fish processing industry in Pago Pago, American Samoa. During the 1980s and 1990s, the longline fleet was mainly comprised of alia, which are locally-built catamarans between 24 and 38 ft in length. Longline fishing from an alia is a small-scale operation; fishermen set about 350 hooks per set and haul the gear with hand-operated reels. Fishing trips usually last one day because alia vessels are not equipped to freeze catch onboard.

In the early 2000s, the longline fishery expanded rapidly with the influx of large (over 50 ft) conventional monohull vessels similar to the type used in the Hawaii-based longline fishery, including some vessels from Hawaii. These vessels are able to travel farther from shore and stay out longer, deploy 30–40 miles of mainline and 20,000 hooks per set, and could freeze catch onboard. From 2000 to 2004 the number of large vessels increased from 4 to 29 while the number of active alia vessels decreased from 37 to 9.

In 2004, in response to alia fishermen's concerns that a continued influx of large vessels could result in adverse impacts to local stocks and the small vessel fleet, the Council established, and NMFS implemented, a limited entry program for the fishery (70 FR 29646, May 24, 2005). Qualification for a longline fishery permit required an individual to document ownership of a vessel that was used to legally harvest and land pelagic management unit species (pelagic MUS) with longline gear in the U.S. EEZ around American Samoa prior to March 22, 2002. Initial permit holders were also required to be U.S. citizens or nationals. The longline fishery permits were divided into four vessel size categories: Class A (<40 ft), Class B (between 40 and 50 ft), Class C (>50 ft and <70 ft), and Class D (>70 ft). The limited entry program is limited to 60 permits annually (see Table 1).

TABLE 1—MAXIMUM NUMBER OF AVAILABLE PERMITS, NUMBER OF PERMITS ISSUED IN 2010 AND 2019, AND NUMBER OF ACTIVE VESSELS IN 2019

Vessel size class	Maximum available permits	Permits issued in 2010	Permits issued in 2019	Active vessels in 2019
A 40 ft or less	16	12	4	3
B 40.1 ft–50 ft	6	0	4	0
C 50.1 ft–70 ft	12	12	12	5
D More than 70 ft	26	26	26	10
Total	60	50	46	18

An American Samoa longline limited access permit of any size class, except Class A, may be transferred to any person with documented participation in the pelagic longline fishery in the EEZ around American Samoa, or a western Pacific community located in American Samoa that meets the criteria under Section 305(2) of the Magnuson-Stevens Act (Community Development Program). A Class A permit holder may transfer a permit to any person with documented participation in the pelagic longline fishery on a Class A size vessel in the EEZ around American Samoa before March 22, 2002, a western Pacific community located in American Samoa that meets the criteria under Section 305(2) of the Magnuson-Stevens Act (Community Development Program), or a family member of the permit holder.

Permits are valid for three years from the date of issue. Current regulations specify requirements to renew a limited access permit. Class A and B permit holders are required to land (in American Samoa) a minimum of 1,000 lb (454 kg) of pelagic MUS (harvested with longline gear in the U.S. EEZ around American Samoa) over three consecutive calendar years. Class C and D permit holders are required to land (in American Samoa) a minimum of 5,000 lb (2,268 kg) of pelagic MUS (harvested with longline gear in the U.S. EEZ around American Samoa) over three consecutive calendar years. In the event that a permit holder does not make the minimum landings within three consecutive years, the permit reverts to NMFS. NMFS may then announce the availability of a permit and issue the permit to a qualified applicant, with the priority given to the applicant with the earliest participation in the fishery onboard a Class A, B, C, or D vessel, in that order.

Only a few small vessels have been active in the fishery since 2007. Participation by large vessels was somewhat stable from 2001 through 2010, but has declined and remained below 20 active vessels annually since then. This proposed rule would change the current American Samoa longline permit classifications, eligibility criteria, and minimum harvest requirements to reduce barriers to participation in the fishery by smaller vessels and to maintain small vessel participation in the fishery, as described below.

Modification to Vessel Size Classification

This proposed rule would reduce the number of vessel size classes from four to two. Class A and B vessels (less than 50 ft) would be classified as Small Vessels and Class C and D vessels (equal to or greater than 50 ft) would be classified as Large Vessels. NMFS would convert all current permits into one of the two new classes, initially resulting in 21 small vessel permits and 39 large vessel permits. The program would continue to be limited to 60 permits. Consolidation of the permit classes is intended to simplify administration of the limited entry program.

Modification to Permit Eligibility Criteria

This proposed rule would restrict permit eligibility to U.S. citizens and nationals only. This would apply to current permits holders, future applicants, or in the case of permit transfers. This proposed rule would also eliminate the criteria for having documented fishery participation to be eligible for a permit. However, it would not change the priority ranking system if there is competition between two or more applicants for a permit (*i.e.,* priority given to the smallest vessel and then determined by documented participation in the fishery).

Currently, there are likely younger fishermen in American Samoa who own vessels in the small vessel class, but are restricted from participating in the fishery because they do not have prior history. For example, it has been 12 years since NMFS implemented the longline limited entry program, and some of the fishermen who had documented participation in the fishery have since passed away. Their children may be interested in joining the fishery, but regulations may be excluding them from the fishery because they do not have documented participation. The Council and NMFS expect that removing the requirement for permit holders to document history in the fishery will expand opportunities for citizens and U.S. nationals to enter the fishery. Such opportunities would be greatest for small vessel owners in American Samoa.

Modification to Minimum Harvest Size Requirements

This proposed rule would reduce the minimum harvest requirement for small vessels to 500 lb (227 kg) of pelagic MUS within a 3-year period. The 5,000 lb (2,268 kg). Harvest for the large vessels would not be modified. However, this proposed rule would eliminate the requirement that the minimum harvests be caught within the U.S. EEZ around American Samoa. The requirement for the minimum harvest amounts to be landed in American Samoa would not be modified.

In the event of a permit transfer, if the minimum harvest amount has not been caught at the time of transfer, the minimum harvest period would not restart. Instead, the new permit holder would be required to meet the harvest requirement based on the following formula: The product of percentage of time left within the three-year permit period and the minimum harvest amount.

For example, the original permit holder, Person A, has 1.5 years left on the three-year permit (50% of the total time) at the time of transfer to Person B. Person A has harvested 300 lb (136 kg) of the 500 lb (new, 227 kg) minimum harvest amount. Under this proposed rule, the minimum harvest amount applied to Person B at time of transfer is computed as:

50 percent (or 0.5) × 500 lb (227 kg) = 250 lb (113 kg)

Therefore, Person B would need to catch 250 lb (113 kg) within the remaining 1.5 years. The catch required by Person B is independent from the amount Person A caught.

Reducing the three-year minimum harvest requirement could result in higher permit retention rates over time for those small vessels that may be having some economic or other difficulty to meet the minimum harvest requirements and allow those permit holders to renew their permits when they otherwise would have to forfeit them. Additionally, reducing the minimum harvest requirement could provide additional encouragement for those thinking about entering the small boat fleet.

The proposed rule would also make several administrative updates to remove outdated American Samoa longline limited entry program regulations. Specifically, this proposed rule removes regulations describing the original application process and the issuance of permits by vessel class in the first three years of the program. All other management measures will continue to apply in the American Samoa Limited entry Longline fishery.

NMFS invites public comments on the proposed action, and specifically invites comments that address the impact of this proposed action on cultural fishing in American Samoa. NMFS must receive any comments by the date provided in the **DATES** section. In addition, NMFS is soliciting comments on proposed Amendment 9, as stated in the Notice of Availability (NOA) published on June 30, 2021 (86 FR 34711). NMFS must receive comments on the NOA by August 30, 2021. NMFS may not consider any comments not postmarked or otherwise transmitted by that date. NMFS will consider public comments received in response to the request for comments on the NOA and to the request for comments in this proposed rule in the decision to approve, disapprove, or partially approve Amendment 9.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed action is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed rule.

This proposed action would directly apply to longline vessels federally permitted under the Pelagics FEP, specifically American Samoa longline permit holders. The longline fishery based in American Samoa is a limited access fishery with a maximum of 60 vessels under the federal permit program. Vessels range in size from under 40 to over 70 ft. long. In 2019, NMFS issued 50 American Samoa longline permits, with 17 of these vessels actively participating in the fishery. Only three of the active vessels were Class A or B vessels. The total longline fleet revenue (estimated landed value) in 2019 was $3.9 million, and albacore composed of over 89% of the total landed value. Other main species included yellowfin, bigeye, skipjack, and wahoo. With 17 active longline vessels in 2019, the ex-vessel value of pelagic fish caught by the American Samoa fishery averaged almost $230,000 per vessel.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels subject to the proposed action are small entities, *i.e.,* they are engaged in the business of finfish harvesting (NAICS code 114111), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of $11 million. Even though this proposed action would

apply to a substantial number of vessels, the implementation of this action would not result in significant adverse economic impact to individual vessels.

The proposed action does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small entities (as discussed above), organizations or government jurisdictions. There does not appear to be disproportionate adverse economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed rule will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

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

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, longline, Pacific Islands, Permits.

Dated: July 13, 2021.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

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

■ 2. In § 665.12, add the definition of ''Small vessel'' in alphabetical order, to read as follows:

§ 665.12 Definitions.

* * * * *

Small vessel means, as used in this part, any vessel less than 50 ft (15.2 m) in length overall.

* * * * *

■ 3. In § 665.19, revise paragraph (a)(2) to read as follows:

§ 665.19 Vessel Monitoring System.

(a) * * *

(2) American Samoa Large Vessel longline limited entry permit issued pursuant to § 665.801(c);

* * * * *

■ 4. In § 665.802, revise paragraph (x) to read as follows:

§ 665.802 Prohibitions.

* * * * *

(x) Fail to comply with a term or condition governing the observer program established in § 665.808, if using a vessel registered for use with a Hawaii longline limited access permit, or a large vessel registered for use with an American Samoa longline limited access permit to fish for western Pacific pelagic MUS using longline gear.

* * * * *

■ 5. Revise § 665.816 to read as follows:

§ 665.816 American Samoa longline limited entry program.

(a) *General.* Under § 665.801(c), certain U.S. vessels are required to be registered for use under a valid American Samoa longline limited access permit. Under the American Samoa Longline Limited Entry Program, the maximum number of longline fishing permits available is limited to 60 permits annually.

(b) *Terminology.* For purposes of this section, the following terms have these meanings:

(1) *Documented participation* means participation proved by, but not necessarily limited to, a properly submitted NMFS or American Samoa logbook, an American Samoa creel survey record, a delivery or payment record from an American Samoa-based cannery, retailer or wholesaler, an American Samoa tax record, an individual wage record, ownership title, vessel registration, or other official documents showing:

(i) Ownership of a vessel that was used to fish in the EEZ around American Samoa, or

(ii) Evidence of work on a fishing trip during which longline gear was used to harvest western Pacific pelagic MUS in the EEZ around American Samoa. If the applicant does not possess the necessary documentation of evidence of work on a fishing trip based on records available only from NMFS or the Government of American Samoa (*e.g.,* creel survey record or logbook), the applicant may issue a request to PIRO to obtain such records from the appropriate agencies, if available. The applicant should provide sufficient information on the fishing trip to allow PIRO to retrieve the records.

(2) *Family* means those people related by blood, marriage, and formal or informal adoption.

(c) *Vessel size classes.* The Regional Administrator shall issue American Samoa longline limited access permits in the following size classes:

(1) Small vessel, which is less than 50 ft (15.2 m) LOA.

(2) Large vessel, which is equal to or over 50 ft (15.2 m) LOA.

(d) *Permit eligibility.* Any U.S. national or U.S. citizen or company, partnership, or corporation is eligible for an American Samoa longline limited access permit.

(e) *Permit issuance.* (1) If the number of permits issued falls below the maximum number of permits allowed, the Regional Administrator shall publish a notice in the **Federal Register** and use other means to notify prospective applicants of any available permit(s) in each class. Any application for issuance of a permit must be submitted to PIRO no later than 120 days after the date of publication of the notice on the availability of additional permits in the **Federal Register**. The Regional Administrator shall issue permits to persons according to the following priority standard:

(i) Priority accrues to the person with the earliest documented participation in the pelagic longline fishery in the EEZ around American Samoa from smallest to largest vessel.

(ii) In the event of a tie in the priority ranking between two or more applicants, the applicant whose second documented participation in the pelagic longline fishery in the EEZ around American Samoa is first in time will be ranked first in priority. If there is still a tie between two or more applicants, the Regional Administrator will select the successful applicant by an impartial lottery.

(2) Applications must be made, and application fees paid, in accordance with §§ 665.13(c)(1), 665.13(d), and 665.13(f)(2). If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet, obtained from the Assistant Regional Administrator for Sustainable Fisheries, containing the names and mailing addresses of all owners, partners, and corporate officers that comprise ownership of the vessel for which the permit application is prepared.

(3) Within 30 days of receipt of a completed application, the Assistant Regional Administrator for Sustainable Fisheries shall make a decision on whether the applicant qualifies for a permit and will notify the successful applicant by a dated letter. The successful applicant must register a vessel of appropriate size to the permit within 120 days of the date of the letter of notification. The successful applicant must also submit a supplementary information sheet, obtained from the Assistant Regional Administrator for

Sustainable Fisheries, containing the name and mailing address of the owner of the vessel to which the permit is registered. If the registered vessel is owned by any entity other than a sole owner, the names and mailing addresses of all owners, partners, and corporate officers must be included. If the successful applicant fails to register a vessel to the permit within 120 days of the date of the letter of notification, the Assistant Regional Administrator for Sustainable Fisheries shall issue a letter of notification to the next person on the priority list or, in the event that there are no more prospective applicants on the priority list, re-start the issuance process pursuant to paragraph (e)(1) of this section. Any person who fails to register the permit to a vessel under this paragraph (e)(3) within 120 days shall not be eligible to apply for a permit for 6 months from the date those 120 days expired.

(4) An appeal of a denial of an application for a permit shall be processed in accordance with § 665.801(o).

(f) *Permit transfer.* The holder of an American Samoa longline limited access permit may transfer the permit to another individual, partnership, corporation, or other entity as described in this section. Applications for permit transfers must be submitted to the Regional Administrator within 30 days of the transfer date. If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet, obtained from the Assistant Regional Administrator for Sustainable Fisheries, containing the names and mailing addresses of all owners, partners, and corporate officers. After such an application has been made, the permit is not valid for use by the new permit holder until the Regional Administrator has issued the permit in the new permit holder's name under § 665.13(c).

(1) An American Samoa longline limited access permit may be transferred (by sale, gift, bequest, intestate succession, barter, or trade) to only the following persons:

(i) A western Pacific community located in American Samoa that meets the criteria set forth in § 3 05(I)(2) of the Magnuson-Stevens Act, 16 U.S.C. 1855(I)(2), and its implementing regulations, or

(ii) Any U.S. citizens or national.

(2) Additionally, an American Samoa longline limited access small vessel permit may also be transferred (by sale, gift, bequest, intestate succession, barter, or trade) to a family member of the permit holder.

(g) *Permit renewal.* (1) An American Samoa longline limited access permit will not be renewed following 3 consecutive calendar years (beginning with the year after the permit was issued in the name of the current permit holder) in which the vessel(s) to which it is registered landed less than:

(i) Small vessel: A total of 500 lb (227 kg) of western Pacific pelagic MUS harvested using longline gear, or

(ii) Large vessel: A total of 5,000 lb (2,268 kg) of western Pacific pelagic MUS harvested using longline gear.

(2) For all vessels, the minimum harvest amount must be landed in American Samoa.

(3) In the event of a transfer, the new permit holder would be required to meet the harvest requirement based on the following formula: Remaining harvest amount = product of percentage of time left within the 3-year permit period and the minimum harvest amount for that size vessel.

(h) *Concentration of permits.* No more than 10 percent of the maximum number of permits, of both size classes combined, may be held by the same permit holder. Fractional interest will be counted as a full permit for calculating whether the 10-percent standard has been reached.

[FR Doc. 2021–15171 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 86, No. 135

Monday, July 19, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket ID: USDA–2021–0006]

Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA

AGENCY: Office of the Secretary, U.S. Department of Agriculture.

ACTION: Request for information; extension of comment period.

SUMMARY: We are extending the comment period for our notice seeking input from the public on how the U.S. Department of Agriculture (USDA) can advance racial justice and equity for underserved communities as part of its implementation of Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period of the request for information published June 16, 2021, at 86 FR 32013, is extended until August 14, 2021. To be assured of consideration, comments must be received on or before August 14, 2021.

ADDRESSES: Comments submitted in response to this notice may be submitted online via the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and search for the Docket number USDA–2021–0006. Follow the online instructions for submitting comments. All comments received will be posted without change and publicly available on *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Archuleta, Director, USDA Office of Intergovernmental & External Affairs, telephone: 202–720–7095, email: *EquityRFI@usda.gov.*

SUPPLEMENTARY INFORMATION: On June 16, 2021, we published in the **Federal Register** (86 FR 32013, Docket No. USDA–2021–0006) a notice seeking input from the public on how USDA can advance racial justice and equity for underserved communicates as part of its implementation of Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Comments on the notice were required to be received on or before July 15, 2021. We are extending the comment period on Docket No. USDA–2021–0006 until August 14, 2021. This action will allow interested persons additional time to prepare and submit comments.

Lisa Ramirez,

Director, Office of Partnerships & Public Engagement, U.S. Department of Agriculture.

[FR Doc. 2021–15259 Filed 7–14–21; 4:15 pm]

BILLING CODE 3410–90–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0036]

Notice of Availability of an Environmental Assessment and Finding of No Significant Impact for the Release of Ramularia crupinae for Biological Control of Common Crupina (Crupina vulgaris) in the Contiguous United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a final environmental assessment and finding of no significant impact relative to permitting the release of *Ramularia crupinae* for the biological control of common crupina (*Crupina vulgaris*) in the contiguous United States. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2327; email: *Colin.Stewart@usda.gov.*

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) is issuing permits for the release of *Ramularia crupinae,* into the contiguous United States for the biological control of common crupina (*Crupina vulgaris*).

Common crupina, a winter annual, is spreading in pastures and rangelands resulting in a reduction in quality of forage as it displaces other species in the northwestern United States; it is a native of Eurasia, most likely originating in the Middle East. Common crupina may grow from 0.3 to 1.0 meter in height, having inconspicuous flowers ranging from lavender to purple, as well as rosettes that develop through the fall and winter.

Ramularia crupinae, a leaf-spotting fungus, was chosen as a potential biological control agent of *Crupina vulgaris* in the contiguous United States over other management options because it is host-specific. On October 30, 2020, we published in the **Federal Register** (85 FR 68838, Docket No. APHIS–2020–0036) a notice [1] in which we announced the availability, for public review and comment, of an environmental assessment (EA) that examined the potential environmental impacts associated with the release of *Ramularia crupinae* for the biological control of common crupina (*Crupina vulgaris*) in the contiguous United States. Comments on the notice were required to be received on or before November 30, 2020. We received one comment by that date. The comment, which did not raise any substantive issues regarding the notice, is addressed in the final EA.

In this document, we are advising the public of our finding of no significant impact (FONSI) regarding the release of *Ramularia crupinae* for the biological control of common crupina *(Crupina vulgaris)* in the contiguous United States. The finding, which is based on the EA, reflects our determination that release of *Ramularia crupinae* for the biological control of common crupina *(Crupina vulgaris)* in the contiguous United States will not have a significant impact on the quality of the human environment. Based on this finding, we

[1] To view the notice, supporting documents, and the comment we received, go to *http://www.regulations.gov* and enter APHIS–2020–0036 in the Search field.

have issued a permit for the release of *Ramularia crupinae* for the biological control of common crupina *(Crupina vulgaris)* in the contiguous United States.

The EA and FONSI may be viewed on the *Regulations.gov* website (see footnote 1). Copies of the EA and FONSI are also available for public inspection at 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 799–7039 to facilitate entry into the reading room. In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 28th day of June 2021.

Mark Davidson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–15176 Filed 7–16–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0072]

Movement of Organisms Modified or Produced Through Genetic Engineering; Notice of Exemptions

AGENCY: Animal and Plant Health Inspection Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: We are advising the public that we are proposing to exempt plants with additional modifications that could otherwise be achieved through conventional breeding from the regulations that govern the introduction (importation, interstate movement, or release into the environment) of certain organisms modified or produced through genetic engineering. The exempt plants would have distinct modifications on the paternal and maternal alleles of a single gene resulting from repair of a targeted DNA break; deletions generated using an externally provided repair template; or deletions resulting from repair of two targeted double strand breaks on a chromosome. This action would reduce the regulatory burden for developers of certain plants modified or produced through genetic engineering that are unlikely to pose plant pest risks while enabling the Animal and Plant Health Inspection Service to focus its regulatory resources on risk analyses of unfamiliar products and those more likely to pose a plant pest risk.

DATES: We will consider all comments that we receive on or before August 18, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2020–0072 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0072, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Neil Hoffman, Science Advisor, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 98, Riverdale, MD 20737–1238; (301) 851–3947.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 govern the introduction (importation, interstate movement, or release into the environment) of certain organisms modified or produced through genetic engineering. The Animal and Plant Health Inspection Service (APHIS) first issued these regulations in 1987 under the authority of the Federal Plant Pest Act of 1957 and the Plant Quarantine Act of 1912, two acts that were subsumed into the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) in 2000, along with other provisions. Since 1987, APHIS has amended the regulations seven times, in 1988, 1990, 1993, 1994, 1997, 2005, and 2020.

On May 18, 2020, we published in the **Federal Register** (85 FR 29790–29838, Docket No. APHIS–2018–0034) a final rule [1] that marked the first comprehensive revision of the regulations since they were established in 1987. The final rule provided a clear, predictable, and efficient regulatory pathway for innovators, facilitating the development of organisms developed using genetic engineering that are unlikely to pose plant pest risks.

The May 2020 final rule included regulatory exemptions for certain categories of plants that have been modified. Specifically, § 340.1(b) exempted plants that contain a single modification of one of the following types, specified in § 340.1(b)(1) through (3):

- The genetic modification is a change resulting from cellular repair of a targeted DNA break in the absence of an externally provided repair template; or
- The genetic modification is a targeted single base pair substitution; or
- The genetic modification introduces a gene known to occur in the plant's gene pool or makes changes in a targeted sequence to correspond to a known allele of such a gene or to a known structural variation present in the gene pool.

In addition to the modifications listed above, § 340.1(b)(4) provides that the Administrator may propose to exempt plants with additional modifications, based on what could be achieved through conventional breeding. Such proposals may either be APHIS-initiated or may be initiated via a request that is accompanied by adequate supporting information and submitted by another party. In either case, APHIS will publish a notice in the **Federal Register** of the proposal, along with the supporting documentation, and will request public comments. After reviewing the comments, APHIS will publish a subsequent notice in the **Federal Register** announcing its final determination. A list specifying modifications a plant can contain and be exempt pursuant to paragraph (b)(4) is available on the APHIS website at *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology.*

In this document, we are proposing to add three modifications that plants can contain and be exempt from regulation pursuant to § 340.1. These modifications are similar and functionally equivalent to modifications that commonly occur within conventional breeding and to the

[1] To view the final rule and supporting documents, go to *https://www.regulations.gov,* and enter APHIS–2018–0034 in the Search field.

modification described in § 340.1(b)(1), but enable a developer to more efficiently obtain a complete loss of function of a targeted gene. We are also making available for public review scientific literature that we consulted prior to initiating the proposal. The literature supports exempting plants with these additional modifications.

Under the first additional genetic modification proposed, plants would not be subject to the regulations when cellular repair of a targeted DNA break in the same location on two homologous chromosomes, in the absence of a repair template, results in homozygous or heterozygous biallelic mutations, each of which is a loss of function mutation. A double strand break followed by cellular repair often occurs in both paternal and maternal alleles (biallelic) during genome editing. As a range of DNA indels frequently occur after a double strand break, the mutation in the paternal allele often differs from the mutation in the maternal allele. Biallelic knockout mutations are easily obtained in conventional breeding through self-fertilizing or backcrossing and selection. In this case, the biallelic mutation is usually homozygous. However, in cases where the deletions are not identical but both deletions lead to a loss of function of the allele, the phenotype will be the same as the homozygous biallelic mutation obtained through conventional breeding. If both alleles are modified by indels such that neither allele is functional, the size, position, and sequence of the indels within the gene need not be identical to qualify for the exemption.

The second additional genetic modification proposed is a contiguous deletion of any size resulting from cellular repair of a targeted DNA break in the presence of an externally supplied repair template. The deletion can occur on one or two homologous chromosomes. This modification is similar to the one described in § 340.1(b)(1), except that it allows an externally supplied repair template to be used. When genome editing is used to create a single DNA break, a range of indels result from the cellular repair mechanism. To limit the range of mutations recovered and, therefore, to more efficiently obtain a complete loss of function of the targeted gene(s), some developers also add a template to guide the repair process. To limit this proposed additional modification to what is achievable through conventional breeding, it would only apply to deletions created by the double strand break and externally supplied repair template.

The third additional genetic modification proposed is for a change resulting from cellular repair of two targeted DNA breaks on a single chromosome or at the same location on two homologous chromosomes, when the repair results in a contiguous deletion of any size in the presence or absence of a repair template, or in a contiguous deletion of any size combined with an insertion of DNA in the absence of a repair template. The insertion cannot result from the insertion of exogenous construct DNA. The modifications on two homologous chromosomes can be heterozygous as long as each results in a loss of function of the targeted gene(s). To qualify for the exemption, the plant must have mutations that are restricted to a pair of homologous chromosomes in diploids and allopolyploids or any two homologous chromosomes in autopolyploids. Radiation mutagenesis, which is commonly used in conventional breeding, can create any size deletion. As mutations are typically detrimental to the organism, what is achievable in practice is limited by the viability and fertility of the organism. Large mutations can be maintained in a heterozygous state but do not tend to undergo homozygous inheritance (Naito, 2005).[2] For example, in Arabidopsis, which has a genome size of 135 Mb (Arabidopsis Genome Initiative, 2000), a radiation-induced deletion of 3.1 Mb was obtained that disrupted 852 genes and was maintainable only as a heterozygote, presumably because genes essential for survival are present in the deleted region (Kazama, *et al.,* 2017).[3] Polyploid plants and those with large genomes are better able to accommodate even larger deletions (Men *et al.,* 2002).[4] For example, in hexaploid wheat, X-ray mutagenesis was used to create a mutant, *ph1,* widely used in breeding programs, that has a 70 Mb deletion (Sears, 1977).[5] To put the size of this wheat deletion in perspective, it is larger than half of the entire genome of Arabidopsis. Based on the use of plants with large deletion mutations in conventional breeding programs, any size contiguous deletion created by two double strand breaks should be exempted because it falls well within what could be achieved through conventional breeding.

After reviewing any comments we receive, we will announce our decision regarding the three new modifications that plants could contain and qualify for exemption in a subsequent notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 14th day of July, 2021.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–15236 Filed 7–16–21; 8:45 am]

BILLING CODE 3410–34–P

[2] Naito, K., M. Kusaba, N. Shikazono, T. Takano, A. Tanaka, T. Tanisaka, and M. Nishimura (2005). Transmissible and nontransmissible mutations induced by irradiating Arabidopsis thaliana pollen with gamma-rays and carbon ions. Genetics, 169, 881–889.

[3] Kazama, Y., K. Ishii, T. Hirano, T. Wakana, M. Yamada, S. Ohbu, and T. Abe (2017). Different mutational function of low- and high-linear energy transfer heavy-ion irradiation demonstrated by whole-genome resequencing of Arabidopsis mutants. Plant J. 92, 1020–1030.

[4] Men, A.E., T.S. Laniya, I.R. Searle, I. Iturbe-Ormaetxe, I. Gresshoff, Q. Jiang, B.J. Carroll, and P.M. Gresshoff (2002). Fast Neutron Mutagenesis of Soybean (Glycine soja L.) Produces a Supernodulating Mutant Containing a Large Deletion in Linkage Group H. Genome Letters 3: 147–155.

[5] Sears, E.A. (1977). An induced mutant with homoeologous pairing in common wheat. Canadian J of Genetics and Cytology 19: 585–593.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0032]

Notice of Request for Revision to and Extension of Approval of an Information Collection; National Poultry Improvement Plan

AGENCY: Animal and Plant Health Inspection Service, Agriculture (USDA).

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the National Poultry Improvement Plan.

DATES: We will consider all comments that we receive on or before September 17, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2021–0032 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2021–0032, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the National Poultry Improvement Plan, contact Dr. Elena Behnke, DVM, Senior Coordinator, National Poultry Improvement Plan, Veterinary Services, APHIS, 1506 Klondike Road SW, Suite 101, Conyers, GA 30094; (770) 922–3496. For more detailed information on the information collection, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: National Poultry Improvement Plan.

OMB Control Number: 0579–0007.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to administer the National Poultry Improvement Plan (NPIP), the primary purpose of which is to protect the health of the U.S. poultry population. NPIP is a Federal-State-industry cooperative program for the improvement of poultry flocks and products through disease control techniques. Participation in all NPIP programs is voluntary, but flocks, hatcheries, and dealers of breeding poultry must first qualify as ''U.S. Pullorum-Typhoid Clean'' as a condition for participation in NPIP programs. The NPIP regulations are contained in 9 CFR part 56 and parts 145 through 147.

To administer the NPIP, APHIS requires a number of activities that include memoranda of understanding; flock selecting and testing reports and commercial waterfowl/game bird egg producing flock surveillance; reports of sales of hatching eggs, chicks and poults (including printing and mailing computerized printouts for small shipments); summaries of breeding flock, table-egg layer flock, meat-type chicken and turkey slaughter plant participation; reports of hatcheries, dealers, and independent flocks, table-egg producers, meat-type chicken and turkey slaughter plants participating in the NPIP; investigations of salmonella isolations in poultry; flock inspection and check testing reports; and hatchery inspection forms. Activities also include banding or marking of sentinel birds for identification prior to flock vaccination; requests for salmonella serotyping; applications for U.S. Avian influenza and Newcastle Clean Compartment and Clean Component Registrations and requests for removal; component audits; auditor applications for NPIP AI Clean Compartment Program; and compliance statements. Activities further include descriptions of animal identification and traceability processes; laboratory examination for Newcastle disease and reporting; diagnostic test evaluations; Newcastle disease biosecurity plans; indemnity compliance agreements; appraisal and indemnity claims for animals or materials destroyed; initial state response and containment plan; and recordkeeping.

The information collection requirements listed above represent activities currently filed under Office of Management and Budget (OMB) control number 0579–0007, National Poultry Improvement Plan, and OMB control number 0579–0474, National Poultry Improvement Plan and Auxiliary Provisions. After OMB approves this combined information collection package (0579–0007), APHIS will retire OMB control number 0579–0474.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.475 hours per response.

Respondents: State agriculture officials; flock owners; breeders; hatchery operators; table-egg, meat-type chicken, and meat-type turkey producers; feedlot and slaughter plant personnel; approved laboratory personnel; prospective and certified auditors; visitors; and associated entities.

Estimated annual number of respondents: 2,867.

Estimated annual number of responses per respondent: 82.

Estimated annual number of responses: 234,630.

Estimated total annual burden on respondents: 111,339 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of July 2021.

Jack Shere,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–15185 Filed 7–16–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2021–0007]

Notice of Funds Availability; Pandemic Livestock Indemnity Program (PLIP)

AGENCY: Farm Service Agency, Agriculture (USDA).

ACTION: Notification of funding availability.

SUMMARY: The Farm Service Agency (FSA) is issuing this notice announcing the availability of funds for the Pandemic Livestock Indemnity Program (PLIP) to provide assistance to producers for losses of livestock and poultry depopulated from March 1, 2020, through December 26, 2020, due to insufficient processing access as a result of the COVID–19 pandemic and for the cost of depopulation and disposal. FSA is implementing PLIP, as authorized by the Consolidated Appropriations Act, 2021 (CAA).

FOR FURTHER INFORMATION CONTACT: Kimberly Graham, Director; telephone: (202) 720–6825; email: *Kimberly.Graham@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202)

720–2600 (voice) or 844–433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

FSA is implementing PLIP, as authorized by CAA (Pub. L. 116–260) and as directed by the USDA Secretary, to make payments to producers of livestock and poultry for losses of livestock or poultry depopulated before December 27, 2020, due to insufficient processing access, based on 80 percent of the fair market value of that livestock and poultry, and for the cost of depopulation (other than costs already compensated under the Environmental Quality Incentives Program (EQIP) [1]). The CAA also provides that the Secretary may take into consideration whether a producer has been compensated for the cost of depopulation under a State program. This assistance will be available to producers through PLIP as provided in this notice. FSA is administering PLIP.

Definitions

The definitions in parts 718 and 1400 of this title apply to PLIP, except as otherwise provided in this document.

Contract grower means a person or legal entity who grows or produces eligible livestock under contract for or on behalf of another person or entity. The contract grower's income is dependent upon the successful production of livestock or offspring from livestock. The contract grower does not have ownership in the livestock and is not entitled to a share from sales proceeds of the livestock.

Depopulation means, consistent with the American Veterinary Medical Association (AVMA) [2] definition, the rapid destruction of a population of livestock or poultry due to insufficient processing access during the COVID–19 pandemic with as much consideration given to the welfare of the animals as practicable.

Live poultry dealer means a live poultry dealer as defined in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(10)). Therefore, live poultry dealer means any person engaged in the business of obtaining live poultry by purchase or under a poultry growing arrangement for the purpose of either slaughtering it or selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce.

Packer means a packer as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)). Therefore, packer means any person engaged in the business:

(a) Of buying livestock in commerce for purposes of slaughter;

(b) Of manufacturing or preparing meats or meat food products for sale or shipment in commerce; or

(c) Of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

Swine means a domesticated omnivorous pig, hog, sow, or boar. Swine for purposes of dividing into categories for payment calculations are further delineated by sex and weight, as determined by FSA.

Eligible Livestock and Poultry

Eligible livestock and poultry include swine, chickens, and turkeys because FSA has determined that producers of these livestock and poultry types suffered losses and incurred costs for depopulation due to insufficient processing access during the COVID–19 pandemic. In addition to the eligible livestock and poultry types listed in this notice, the Deputy Administrator for Farm Programs may announce additional eligible livestock categories if FSA later determines that other livestock were also depopulated due to insufficient processing access as a result of the COVID–19 pandemic.

Eligible livestock and poultry must have been depopulated from March 1, 2020, through December 26, 2020, due to insufficient processing access as a result of the COVID–19 pandemic in order to be eligible for PLIP. The livestock and poultry must have been physically located in the United States or a territory of the United States at the time of depopulation to be eligible. Eligible livestock does not include livestock not born, such as unborn swine that were depopulated during pre-farrowing.

Eligible Livestock Owners and Poultry Owners

Eligible livestock owners and poultry owners include only persons or legal entities who, as of the day the eligible livestock or poultry was depopulated, had the legal ownership of the livestock or poultry.

To be eligible for PLIP, a livestock or poultry owner must be any of the following:

(1) Citizen of the United States;

(2) Resident alien, which for purposes of this subpart means ''lawful alien'' as defined in 7 CFR part 1400;

(3) Partnership of citizens or resident aliens of the United States;

(4) Corporation, limited liability company, or other organizational structure organized under State law solely owned by U.S. citizens or resident aliens; or

(5) Indian Tribe or Tribal organization, as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

Ineligible Livestock Owners and Poultry Owners

Ineligible livestock owners and poultry owners include:

(1) Contract growers;

(2) Federal, State and local governments, including public schools;

(3) Live poultry dealers; and

(4) Packers.

Application Process

FSA will accept the applications from July 20, 2021, through September 17, 2021. To apply for PLIP, eligible livestock owners and poultry owners must submit a complete FSA–620, Pandemic Livestock Indemnity Program (PLIP) Application, in person, by mail, email, or facsimile to any FSA county office.

Applicants must also submit all of the following items, if not previously filed with FSA:

- AD–2047, Customer Data Worksheet for new customers or existing customers needing to update their customer profile;
- Form CCC–902, Farm Operating Plan for an individual or legal entity as provided in 7 CFR part 1400;
- Form CCC–901, Member Information for Legal Entities (if applicable);
- An average adjusted gross income statement for the 2020 program year for the person or legal entity, including the legal entity's members, partners, shareholders, heirs, or beneficiaries as provided in 7 CFR part 1400; form CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- A highly erodible land conservation (sometimes referred to as HELC) and wetland conservation certification as provided in 7 CFR part 12 (form AD–1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification for PLIP applicant and applicable affiliates).

[1] EQIP is administered by USDA's Natural Resources Conservation Service according to the regulations in 7 CFR part 1466.

[2] The AVMA Guidelines for the Depopulation of Animals is available at: *https://www.avma.org/sites/default/files/resources/AVMA-Guidelines-for-the-Depopulation-of-Animals.pdf.*

Applicants must submit all required eligibility documentation specified above, as applicable, no later than 60 days from the date an applicant signs and submits the FSA–620. When the applicant does not timely submit the required eligibility documentation, FSA will not issue a payment. When the required documentation is not timely submitted for a member of a legal entity, FSA will reduce the payment based on the member's ownership share of the legal entity.

If requested by FSA, the applicant must provide supporting documentation to substantiate the information on their application and ownership of the livestock and poultry claimed on the application. Examples of supporting documentation that may be requested include veterinarian records, feeding records, inventory records, rendering receipts, purchase receipts, and other records determined acceptable by the relevant FSA county committee. If any supporting documentation is requested, the documentation must be submitted to FSA within 30 days from the request or the application will be disapproved by FSA.

Payment

PLIP payments compensate participants for both the loss of the eligible livestock or poultry and for the cost of depopulation and disposal. To simplify administration of PLIP, FSA has determined a single payment rate per head for each of the categories in the table below. The categories and market values are consistent with the categories and nationwide prices used to administer the Livestock Indemnity Program (LIP), 7 CFR part 1416, subpart D, for 2020. The estimated cost of depopulation is based on USDA's estimates of the average costs of common methods used to depopulate animals.[3] The estimated cost of disposal is based on the costs of common disposal methods and rates used in EQIP. The disposal rates are weighted based on the number of participants paid under EQIP by disposal method. If additional categories are determined to be eligible after publication of this notice, those categories and payments rates will be announced by press release and outreach to stakeholders by the Deputy Administrator for Farm Programs.

Eligible livestock or poultry category	Market value per head (after 80 percent factor)	Depopulation & disposal cost per head (after 80 percent factor)	Depopulation payment rate per head (after 80 percent factor)
Swine: Boars and sows; 451 lbs. or greater	$173.25	$85.32	$258.57
Swine: Sows, boars, barrows, and gilts; 251–450 lbs	111.74	47.13	158.88
Swine: Sows, boars, barrows, and gilts; 151–250 lbs	87.97	34.13	122.10
Swine: Lightweight barrows and gilts; 50–150 lbs	68.38	20.32	88.70
Swine: Suckling nursery pigs; less than 50 lbs	48.81	6.50	55.31
Chickens: Chicks	0.26	0.06	0.32
Chickens: Super roasters and parts; 7.76 lbs. or greater	4.17	1.14	5.31
Chickens: Roasters; 6.26–7.75 lbs	3.17	0.87	4.04
Chickens: Broilers, pullets; 4.26–6.25 lbs	2.50	0.68	3.18
Chickens: Pullets, Cornish hens; less than 4.26 lbs	1.70	0.46	2.16
Chickens: Layers	3.64	1.30	4.94
Turkeys: Poults	1.33	0.82	2.15
Turkeys: Toms, fryers, and roasters	12.85	2.72	15.57

PLIP payments will be calculated by multiplying the number of head of eligible livestock or poultry by the depopulation payment rate per head from the table above, and then subtracting the amount of any payments the eligible livestock owner or poultry owner has received for disposal of the livestock or poultry under EQIP or a State program. The payments will also be reduced by any Coronavirus Food Assistance Program 1 and 2 (CFAP 1 and 2) payments paid on the same inventory of swine that were depopulated.[4] FSA will issue payments to eligible livestock owners and poultry owners as applications are received. PLIP is not subject to payment limitation.

Provisions Requiring Refund to FSA

In the event that any application for a PLIP payment resulted from erroneous information reported by the applicant, the payment will be recalculated, and the participant must refund any excess payment to FSA including interest to be calculated from the date of the disbursement to the PLIP participant. If, for whatever reason, FSA determines that the applicant misrepresented either the total amount or the producer's share of the head of livestock or poultry, the application will be disapproved and the participant must refund the full PLIP payment to FSA with interest from the date of disbursement. Any required refunds must be resolved in accordance with 7 CFR part 3.

Miscellaneous Provisions

A person or legal entity, other than a joint venture or general partnership, is ineligible for PLIP payments if the person's or legal entity's average adjusted gross income (AGI), using the average of the adjusted gross incomes for the 2016, 2017, and 2018 tax years, exceeds $900,000. With respect to joint ventures and general partnerships, this AGI provision will be applied to members of the joint venture and general partnership. AGI provisions are applicable to members of a legal entity, including a general partnership or joint venture who are at or above the fourth tier of ownership in the business structure. The eligible livestock owner's payment will be reduced by the portion of a payment attributed to a member who exceeds the $900,000 AGI

[3] Information on common methods of depopulation and associated costs is available from the Animal and Plant Health Inspection Service at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/livestock-coordination-center/livestock-coordination-center.*

[4] The portion of the CFAP 1 payment for hogs and pigs that was funded under the Coronavirus Aid, Relief, and Economic Stability Act (CARES Act; Pub. L. 116–136) was based on inventory sold between January 15, 2020, and April 15, 2020; therefore, no reduction is necessary for that portion of the CFAP 1 payment.

limitation or is otherwise ineligible for payment.

Payments will be attributed to individual persons and members of entities through the direct attribution process described in 7 CFR 1400.105. An applicant that is a legal entity will be required to provide the names and taxpayer identification numbers of the members holding an ownership interest in the legal entity as described in 7 CFR 1400.107. A reduction in payment will be applied to the payment entity if the fourth tier of ownership in the legal entity is that of a legal entity and not that of an individual person.

If an individual or legal entity is not eligible to receive PLIP payments due to the individual or legal entity failing to satisfy some other payment eligibility provision such as AGI or conservation compliance provisions, the payment made either directly or indirectly to the individual or legal entity will be reduced to zero. The amount of the reduction for the direct payment to the applicant will be commensurate with the direct or indirect ownership interest of the ineligible individual or ineligible legal entity.

General requirements that apply to other FSA-administered commodity programs also apply to PLIP, including compliance with the provisions of 7 CFR part 12, ''Highly Erodible Land and Wetland Conservation,'' and the provisions of 7 CFR 718.6, which address ineligibility for benefits for offenses involving controlled substances. Appeal regulations specified in 7 CFR parts 11 and 780 and equitable relief and finality provisions specified in 7 CFR part 718, subpart D, apply to determinations under PLIP. The determination of matters of general applicability that are not in response to, or result from, an individual set of facts in an individual participant's application for payment are not matters that can be appealed. Such matters of general applicability include, but are not limited to, the determination of payment rates and eligible livestock and poultry categories for PLIP.

Participants are required to retain documentation in support of their application for 3 years after the date of approval. Participants receiving PLIP payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and to allow representatives to make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

An applicant may file an application with an FSA county office after the PLIP application deadline, and in such case the application will be considered a request to waive the deadline. The Deputy Administrator has the discretion and authority to consider the case and waive or modify application deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of PLIP. Although applicants have a right to a decision on whether they filed applications by the deadline or not, applicants have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator's refusal to exercise discretion to consider the request will not be considered an adverse decision and is, by itself, not appealable.

Any payment under PLIP will be made without regard to questions of title under State law and without regard to any claim or lien. The regulations governing offsets in 7 CFR part 3 do not apply to payments made under this part.

In either applying for or participating in PLIP, or both, the eligible livestock owner or poultry owner is subject to laws against perjury and any penalties and prosecution resulting therefrom, with such laws including but not limited to 18 U.S.C. 1621. If the eligible livestock owner or poultry owner willfully makes and represents as true any verbal or written declaration, certification, statement, or verification that the eligible livestock owner or poultry owner knows or believes not to be true, in the course of either applying for or participating in PLIP, or both, then the eligible livestock owner or poultry owner is guilty of perjury and, except as otherwise provided by law, may be fined, imprisoned for not more than 5 years, or both, regardless of whether the eligible livestock owner or poultry owner makes such verbal or written declaration, certification, statement, or verification within or without the United States.

For the purposes of the effect of a lien on eligibility for Federal programs (28 U.S.C. 3201(e)), USDA waives the restriction on receipt of funds under PLIP but only as to beneficiaries who, as a condition of the waiver, agree to apply the PLIP payments to reduce the amount of the judgment lien.

In addition to any other Federal laws that apply to PLIP, the following laws apply: 15 U.S.C. 714; and 18 U.S.C. 286, 287, 371, and 1001.

Paperwork Reduction Act Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the emergency information collection request has been submitted to the Office of Management and Budget (OMB). OMB approved the 6-month emergency PLIP information collection activity. FSA will make payments to producers of livestock and poultry for losses of livestock or poultry depopulated before December 27, 2020, due to insufficient processing access, based on 80 percent of the fair market value of the livestock and poultry, and for the cost of depopulation (other than costs already compensated under the Environmental Quality Incentives Program, state funded programs, and CFAP 1 and 2 payments).

Environmental Review

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799).

As previously stated, PLIP is providing payments to qualified producers of livestock and poultry for losses of livestock or poultry depopulated before December 27, 2020, due to insufficient processing access based on 80 percent of the fair market value of the livestock and poultry, and for the cost of depopulation. The limited discretionary aspects of PLIP do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the FSA Categorical Exclusions specified in 7 CFR 799.31(b)(6)(iii) that applies to price support programs and § 799.31(b)(6)(vi) that applies to safety net programs.

No Extraordinary Circumstances (§ 799.33) exist. As such, the implementation of PLIP and the participation in PLIP do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this document applies is 10.138—Pandemic Livestock Indemnity Program.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 or 844–433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

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Zach Ducheneaux,

Administrator, Farm Service Agency.

[FR Doc. 2021–15295 Filed 7–16–21; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2020–0023]

Response to the Office of Inspector General's Recommendations on the Rulemaking Process for the Proposed Rule Modernization of Swine Slaughter Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is responding to two recommendations from the USDA Office of Inspector General (OIG) regarding the Agency's rulemaking process for the proposed rule entitled *Modernization of Swine Slaughter Inspection,* that included the proposal to establish the New Swine Slaughter Inspection System (NSIS).

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development, telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

FSIS is providing information to further address two recommendations from the recent USDA OIG Final Inspection Report, *FSIS Rulemaking Process for the Proposed Rule: Modernization of Swine Slaughter Inspection* (Inspection Report 24801–0001–41, June 23, 2020),[1] both concerning the presentation of data in a preliminary worker safety analysis that FSIS conducted when developing the proposed rule.[2] FSIS already responded to the two recommendations and the responses were printed in the OIG report (available at *https://www.usda.gov/sites/default/files/audit-reports/24801-0001-41.pdf*). OIG did not fully accept the FSIS responses, however, and requested further clarification about the data in a public document.

In its final report, OIG recommended (Recommendation #2) that FSIS communicate to the public the correct scope of data used in the FSIS preliminary worker safety analysis. Specifically, OIG found a typographical error in the sentence in the proposed rule that states, ''FSIS compared in-establishment injury rates between HACCP-Based Inspection Models Project (HIMP) establishments and traditional establishments from 2002 to 2010'' (83 FR 4796). OIG pointed out in its report that for the preliminary worker safety analysis, FSIS also examined CY 2011 results for 5 of 24 traditional establishments, which were outside of its stated scope of CYs 2002 to 2010.

FSIS has acknowledged the typographical error in discussions with OIG and noted that it did not affect the conclusions of the analysis or have any bearing on its ability to be understood. Regardless of what time span is used, from 2002 to 2010 or from 2002 to 2011, both show that HIMP[3] establishments had lower mean injury rates than non-HIMP establishments. In addition, this OIG recommendation was addressed in the publication of the final rule to modernize swine inspection (84 FR 52300), where FSIS included a link (84 FR 52305) to its Electronic Freedom of Information Act Reading Room, which contains documents that show FSIS' full analysis of worker injury data.

OIG also recommended (Recommendation #3) that FSIS communicate to the public two limitations of the Occupational Safety and Health Administration (OSHA) data used for FSIS' analysis. While the Agency used the best publicly available data and requested from the public additional data resources on injuries in swine establishments, OIG contended that these two limitations should have been discussed in the proposed or final rules. Specifically, OIG stated that (1) the OSHA data the agency used in its analysis of the 29 establishments did not include injury and illness rates for all establishments for each of the 10 years, and (2) the OSHA data used did not differentiate whether injuries/illnesses occurred on the swine slaughter line or elsewhere within the establishment.

FSIS is publishing OIG's two observations about the data used in the preliminary worker safety analysis in response to OIG's recommendation to communicate these observations to the public. Importantly, FSIS did not develop the preliminary worker safety

[1] *https://www.usda.gov/oig/audit-reports/fsis-rulemaking-process-proposed-rule-modernization-swine-slaughter-inspection.*

[2] On March 31, 2021, the U.S. District Court for the District of Minnesota vacated a portion of the NSIS final rule. The Court found that FSIS violated the Administrative Procedure Act because it asked for comments on the impact of line speed increases on worker safety in the proposed rule but did not consider these comments in the final rule. The Court vacated the final rule only insofar as it eliminated the maximum line speed cap for NSIS establishments. The other provisions of the final rule were not affected by the Court's decision.

[3] The HACCP-Based Inspection Models Project, or HIMP, was a pilot program for modernized poultry and swine inspection, data from which informed the New Poultry Inspection System and NSIS rulemakings.

analysis as a basis for the NSIS rulemaking, to draw conclusions on worker safety in HIMP or non-HIMP establishments, or to determine whether there is an associated impact on food safety. Had FSIS developed the analysis for any of these reasons, it would have more thoroughly addressed data limitations and uncertainty, as recommended by OIG.

Instead, FSIS published the preliminary worker safety analysis solely to solicit comments for use by OSHA and the National Institute for Occupational Safety and Health (NIOSH) in examining worker safety in swine slaughter establishments. OSHA and NIOSH are the Federal agencies with jurisdiction over meat and poultry establishment worker safety. Notably, FSIS stated this immediately following the discussion of the preliminary analysis in the preamble to the proposed rule (83 FR 4796):

> FSIS is requesting comments on the effects of faster line speeds on worker safety. Specifically, FSIS is requesting comments on whether line speeds for the NSIS should be set at the current regulatory limit of 1,106 hph or some other number. The Agency is also interested in comments on the availability of records or studies that contain data that OSHA or the National Institute for Occupational Safety and Health (NIOSH) may be able to use in analyzing the effects of increased line speed on the safety and health of employees throughout the establishment, including effects prior to and following the evisceration line.

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Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS also will announce and provide a link to it through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

Done at Washington, DC.

Paul Kiecker,

Administrator.

[FR Doc. 2021–15291 Filed 7–16–21; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0033]

Availability of Two Revised Guidelines for Minimizing the Risk of Shiga Toxin-Producing Escherichia Coli (STEC) in Beef Slaughter and Processing Operations

AGENCY: Food Safety and Inspection Service, Agriculture (USDA).

ACTION: Notice of availability and response to comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing that it has updated two of its guidelines for minimizing the risk of Shiga toxin-producing *Escherichia coli* (STEC) in beef slaughter (including veal) and processing operations. Additionally, FSIS is responding to comments on the guidelines.

ADDRESSES: Downloadable versions of the guidelines are available to view and print at *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/guidelines.* No hard copies of the guidelines have been published.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development by telephone at (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2017, FSIS announced in the *Constituent Update* [1] the availability of the *FSIS Compliance Guideline for Minimizing the Risk of Shiga Toxin-producing Escherichia coli (STEC) and Salmonella in Beef (including Veal) Slaughter Operations* (hereafter referred to as the beef slaughter guideline). On September 6, 2017, FSIS announced in the **Federal Register** the availability of the *FSIS Compliance Guideline for Minimizing the Risk of Shiga Toxin-Producing Escherichia coli (STEC) in Raw Beef (including Veal) Processing Operations* (hereafter referred to as the beef processing guideline).[2] FSIS published these guidelines to advise small and very small establishments on the best practices for beef slaughter and processing to prevent, eliminate, or

[1] The March 3, 2017 Constituent Update is located at: *https://www.fsis.usda.gov/news-events/news-press-releases/constituent-update-march-3-2017.*

[2] *FSIS Compliance Guideline for Minimizing the Risk of Shiga Toxin-Producing Escherichia coli (STEC) in Raw Beef (including Veal) Processing Operations* can be found at: *https://www.govinfo.gov/app/details/FR-2017-09-06/2017-18847.*

reduce levels of fecal and associated microbiological contamination. The guidelines provided information on addressing contamination with STEC and Salmonella in raw non-intact beef products and beef products intended for non-intact use. FSIS requested comments on these guidelines.

After review and consideration of all comments, FSIS has made changes to and clarified certain aspects of the guidelines. For example, FSIS removed the word ''compliance'' from the titles of the guidelines to help clarify that the guidelines are recommendations and do not create any new regulatory requirements. The other revisions are summarized below and are discussed in more detail in the Agency's responses to comments. The revised guidelines are available at the FSIS guidance web page.[3] Although comments on these guidelines will no longer be accepted through *www.regulations.gov,* FSIS will continue to update these documents, as necessary.

Summary of Changes to the Guidelines

Beef Slaughter Guideline

- FSIS clarified that the Agency's recommendations are not regulatory requirements;
- FSIS removed the information pertaining to lymph node harborage of *Salmonella* and will make that information available in other Agency documents that focus on controlling *Salmonella* as a foodborne hazard;
- FSIS removed best practice recommendations on the use of chlorophyll to detect contamination on carcasses and air inflation for bunging;
- FSIS clarified the Agency's recommendations on washing cattle to reduce pathogen transfer and added more information on humane handling during cattle washing;
- FSIS added more information on pre-harvest interventions;
- FSIS clarified the Agency's recommendations about when feet, eardrums, and bruises should be removed;
- FSIS provided more information to support its recommendations on chilling and storage of carcasses and parts;
- FSIS emphasized that it considers the presence of certain STEC strains to be adulterants when they are present in raw non-intact beef products and raw intact beef source materials intended for use in such non-intact beef products or when the intended use is unclear. These adulterant STEC strains include *E. coli* O157:H7 as well as strains that have certain O groups (O26, O45, O103, O111, O121, and O145) and contain two specific virulence genes (stx and eae). This addition was created to clarify FSIS policy regarding STEC in relation to product recalls; and
- FSIS added a section on how ''dry aging'' can be used as an intervention to reduce pathogens, including STEC.

Beef Processing Guideline

- FSIS clarified throughout the document that the recommendations in the guideline are not regulatory requirements;
- FSIS removed the section on lymph node removal;
- FSIS removed all references to *Salmonella*;
- FSIS added additional examples and scenarios using supplier-based verification programs to illustrate additional verification options for establishments;
- FSIS added a brief question and answer section addressing antimicrobial interventions and retained water in beef trim intended for grinding, based on concerns expressed by stakeholders to Agency leadership; and
- FSIS added language from FSIS' Microbiology Laboratory Guidebook (MLG), stating that, when testing for STEC, if the initial screen test result is negative for the Shiga toxin gene (stx) or the intimin gene (eae), then the test result is considered to be negative for an adulterant. This addition was created to clarify FSIS policy regarding STEC in relation to product recalls.

Comments and Responses

FSIS received three comments on the beef slaughter guideline from an industry group, a consumer group, and a consumer. FSIS received six comments on the beef processing guideline from three industry groups, two consumers, and a very small establishment. Comment summaries and Agency responses follow.

General

Comment: Multiple industry groups suggested that FSIS revise the guidelines to clarify that the recommendations in the guidelines are not regulatory requirements. The same industry groups stated that FSIS inspectors could incorrectly interpret the guidelines as regulatory requirements instead of best practice recommendations. These same commenters requested that FSIS change the titles of the guidelines to remove the phrase ''compliance guidelines'' and replace it with ''guidance'' or ''industry guidance'' to avoid potential misuse.

Response: As FSIS mentioned above, the Agency removed the word ''compliance'' from the guidelines' titles. FSIS also included additional text throughout the documents to clarify that the best practices in the documents are not regulatory requirements.

Comment: Multiple industry groups expressed concern regarding the mention of cooking non-intact raw beef products to a level of ''doneness'' (*i.e.,* rare, medium rare, and well-done), instead of listing recommended internal cooking temperatures. The commenters argued that doneness is not a reliable indicator for food safety and that the guideline would be improved if the levels of doneness were replaced with temperatures and descriptions.

Response: The Agency agrees that visual observation is not a scientifically reliable indicator of food safety. The use of the term ''doneness'' is to explain to the reader, using plain language, why STEC is an adulterant in some, but not all beef products. Because ''rare'' and ''medium rare'' are common descriptive terms describing levels of doneness that indicate non-intact beef products have not been cooked to a validated time/temperature combination sufficient to destroy STEC throughout a product, FSIS did remove the term from the guidance. When describing products that are customarily cooked by the consumer to a well-done state, FSIS made specific reference to validated time and temperature combinations sufficient to destroy STEC throughout the product.

STEC Slaughter Guideline

Comment: One consumer group suggested that the beef slaughter guideline should include more information on veal products and that FSIS should develop outreach materials that focus on the challenges associated with preparing veal products. The consumer group cited recent recalls of veal products to support their argument that FSIS should provide more guidance on veal products.

Response: The Agency maintains that minimizing contamination of the carcass and maximizing decontamination efforts during the slaughter process are the best ways to reduce STEC and *Salmonella* contamination in all classes of beef, including veal. Many of the examples in the beef slaughter guideline should be helpful to establishments that slaughter veal.

FSIS has already published a best-practices document specific for veal slaughter sanitary dressing procedures

[3] The FSIS guidance web page can be found at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/guidelines.*

and antimicrobial interventions.[4] A reference to the veal slaughter sanitary dressing document has been added to the beef slaughter guideline. FSIS believes that information provided in the beef slaughter guideline and the 2015 best practices document properly addresses concerns over recent recalls associated with STEC in veal. FSIS is not revising the guideline in response to this comment.

Salmonella

Comment: A consumer group argued that FSIS should do more to protect consumers from *Salmonella* in beef. The same consumer group argued that FSIS should declare antibiotic resistant (ABR) *Salmonella* strains to be adulterants, just as it declared the six strains of STEC to be adulterants in 2011. Additionally, the consumer group suggested that FSIS update its performance standards for *Salmonella* in ground beef because the current standards are based on outdated studies.

Response: In 2011, the Agency received a petition from the Center of Science in the Public Interest (CSPI) requesting that the Agency declare certain strains of ABR *Salmonella* to be *per se* adulterants, *i.e.* adulterants in all meat and poultry products, including raw products. FSIS denied the petition without prejudice after determining that the data submitted with the petition was insufficient to support CSPI's request. In 2014, CSPI submitted another petition on the same matter, which FSIS also denied without prejudice.[5]

In the Agency's final response to the 2014 petition, FSIS explained that while the 2014 petition included expanded factual and legal support, the data did not support giving any of the ABR *Salmonella* strains identified in the petition a different status as adulterants than is given to *Salmonella* strains that are susceptible to antibiotics under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 453 *et seq.*). FSIS also explained in the petition response that the data show that numerous factors, including genetic, environmental, and host-specific factors interact to make a particular strain pathogenic and virulent. Because of this complexity, FSIS concluded that antibiotic resistance alone is not an appropriate basis for determining whether a strain of *Salmonella* should be considered an adulterant in raw meat and poultry products. FSIS further explained that the Agency does not consider ABR *Salmonella* to be an ''added substance'' within the meaning of the adulteration provisions of the FMIA or PPIA.

More recently, on January 18, 2020, FSIS received a petition submitted on behalf of consumer advocacy groups and private individuals requesting that FSIS issue an interpretive rule to declare certain *Salmonella* serotypes to be *per se* adulterants in meat and poultry products. The petition is available on FSIS' website.[6] FSIS requested that interested persons submit comments on the petition.[7] The comment period closed on May 22, 2020. FSIS is analyzing the comments and developing a response to the petition, which it will post on its website.

Regarding the comment on *Salmonella* performance standards for ground beef, FSIS published a **Federal Register** notice on October 28, 2019, to announce and request comments on proposed pathogen reduction performance standards for *Salmonella* in raw ground beef and beef manufacturing trimmings.[8] The comment period closed January 27, 2020. The Agency is currently reviewing the comments it received on the notice and intends to respond to comments and announce the final performance standards in a future **Federal Register** document. FSIS is not revising the guidance documents in response to this comment.

Sampling

Comment: An individual consumer submitted questions about FSIS' sampling and testing methods for STEC and *Salmonella.*

Response: FSIS did not address these topics in the beef slaughter guideline. However, more information on sampling and testing methodologies can be found in the *FSIS Compliance Guideline for Controlling Meat and Poultry Products Pending FSIS Test Results,*[9] *Foodborne Pathogen Test Kits Validated by Independent Organizations,*[10] and the FSIS *Microbiology Laboratory Guidebook* (MLG).[11] FSIS is not revising the guidance documents in response to this comment.

Comment: Multiple establishments have sent inquiries to the askFSIS questioning whether the required generic *E. coli* testing under 9 CFR 310.25 is equivalent to STEC testing conducted for HACCP verification. Although these questions were not submitted specifically as comments on the guidelines, we have addressed the issue in the revisions to the guidelines, as they are the best vehicle to communicate guidance to industry stakeholders.

Response: FSIS has added a text box to the verification sections of the slaughter and processing guidelines to explain the differences between STEC testing conducted for HACCP verification and the required generic *E. coli* testing under 9 CFR 310.25. The text box explains how each serves a separate function, and neither is a supportable substitute for the other.

Best Practices

Comment: One consumer group suggested that the beef slaughter guideline emphasize the importance of preventing aerosolization of contamination during ''up-pulling'' of hides, which is the action generated by a machine that pulls the hide away from the carcass.

Response: The beef slaughter guideline's best practice section on dehiding as posted on September 6, 2017 already included information on preventing aerosolization due to the excessive forces that occur when using mechanical hide pullers. During this process, best practices in preventing cross-contamination include establishing a maintenance program for the mechanical pullers that involves monitoring pullers on an on-going basis for proper adjustment, installing shields or devoting an employee to holding up a shield, and directing air flow away from the carcasses being skinned to prevent contamination of carcasses with the aerosols created at this step. Because

[4] *Antimicrobial Intervention Implementation and Veal Slaughter Establishments: Identified Issues and Best Practices* can be found at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/guidelines/2015-0018.*

[5] The link to the CSPI petitions and the Agency's responses is located at *https://www.fsis.usda.gov/policy/petitions.*

[6] The link to the FSIS Petitions web page is located at: *https://www.fsis.usda.gov/policy/petitions.*

[7] The link to the January 18, 2020 petition can be found at: *https://www.regulations.gov/document/FSIS-2020-0007-0001.*

[8] *Changes to the Salmonella Verification Testing Program: Proposed Performance Standards for Salmonella in Raw Ground Beef and Beef Manufacturing Trimmings and Related Agency Verification Procedures* can be found at *https://www.federalregister.gov/documents/2019/10/28/2019-23473/changes-to-the-salmonella-verification-testing-program-proposed-performance-standards-for-salmonella.*

[9] The FSIS Compliance Guideline for Controlling Meat and Poultry Products Pending FSIS Test Results can be found at: *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/guidelines/2013-0003.*

[10] The list of test kits that have been validated for detection of relevant foodborne pathogens can be found at: *https://www.fsis.usda.gov/guidelines/2019-0008.*

[11] FSIS Microbiology Laboratory Guidebook: *https://www.fsis.usda.gov/news-events/publications/microbiology-laboratory-guidebook.*

the requested information is already in the guideline, FSIS did not make additional changes to the guidance in response to this comment.

Comment: An industry group argued that the recommendation in the ''Best Practices during Cattle Transport, Receiving and Holding'' section on washing incoming cattle is flawed. The commenter agreed that washing cattle reduces visual contamination but argued that the guideline provides no support showing that the practice effectively reduces *Salmonella* and STEC contamination.

Response: FSIS has revised the beef slaughter guideline to clarify that washing cattle may be considered a means to reduce visible contamination, but this practice may not necessarily reduce pathogen transfer to the carcass. In addition, FSIS specified that if an establishment decides to wash livestock pre-slaughter, it should ensure the washing is done in a humane manner.

Comment: An industry group questioned language in the beef slaughter guideline suggesting that industry-source cattle from ''farms or feedlots that employ one or more production system or feedlot controls [are] shown to reduce the carriage of STEC and *Salmonella*.'' The commenter also opposed language in the guideline stating that ''effective farm and feedlot management and control can reduce fecal shedding of the organism, as well as reduce the microbial load on the animals in the intestinal tract.'' The commenter pointed out that FSIS does not cite any data to support the conclusion that sourcing such cattle will cause a meaningful reduction in the overall prevalence of *Salmonella* and STEC on carcasses or their final products and stated that FSIS should remove the section from the guideline.

Response: FSIS has revised the beef slaughter guideline to add a reference to the 2014 FSIS guideline on preharvest controls for STEC.[12] The 2014 guideline addresses the commenter's concerns, including the concern about FSIS' supporting data for its recommendations on pre-harvest interventions.

Comment: An industry group expressed concern about language in the beef slaughter guideline about removing the front and hind feet before making any incisions to remove the hide. The industry group stated that the practice is unnecessary if cattle are not being cradled for skinning. The industry group stated that FSIS inspectors may consider that the best practice recommendation is a regulatory requirement.

Response: FSIS revised the ''Best Practices during Hide Removal'' section of the beef slaughter guideline to clarify that establishments are not required to remove an animal's feet first. However, FSIS continues to recommend that when establishments use a bed or cradle for hide removal, establishments remove the front and hind feet before making any other incisions through the hide. These procedures should reduce the potential for cross-contamination of the carcass.

Comment: An industry group expressed concern regarding recommended practices in the beef slaughter guideline related to clamping, bagging tails, bunging before hide removal, and using paper towels to protect the exposed carcass surfaces. While the commenter agreed that it is important to ensure the hide, tail, and bung do not contact the carcass surface, the commenter noted that the recommendations appear to be regulatory requirements and that there are additional methods to protect carcasses from insanitary conditions than FSIS provides in the guideline.

Response: FSIS revised the beef slaughter guideline to convey that FSIS' recommendations are not regulatory requirements and that there are more ways to prevent insanitary conditions than were mentioned in the 2017 guideline. For example, FSIS revised the guideline to state that using hide clips is just one way to prevent hide flaps from contacting the carcass.

Comment: An industry group mentioned that using chlorophyll detection equipment to identify fecal material is outdated and most equipment used for this purpose is no longer commercially available.

Response: FSIS removed the best practice recommendations on the use of chlorophyll to detect contamination on carcasses from the beef slaughter guideline.

Comment: An industry group pointed out that in the ''Best Practices during Bunging'' section, FSIS recommends that establishments remove the bung during the final part of rumping. While the commenter acknowledged that it is important to ensure the bung is not a source of fecal contamination to the carcass, the commenter questioned why FSIS recommends that bunging be performed at this step. The commenter argued that bunging should happen whenever an establishment can best minimize the risk of contamination.

Response: FSIS modified the beef slaughter guideline to reflect that an establishment could do bunging at other points in the process, besides the final part of rumping, if the establishment minimized the contamination.

Comment: An industry group opposed the guideline's recommendation of using air inflation around the anus/vulvar area to assist in bunging, because, according to the commenter, this practice is not typically performed and could cause greater contamination.

Response: FSIS removed the recommendation of using air inflation.

Comment: An industry group expressed concern regarding the ''Best Practices during Head Removal'' section of the guideline. The commenter pointed out that FSIS suggests removing the eardrums before head washing but provides no explanation or documentation as to why any establishment should perform this process before washing and not after.

Response: FSIS revised the text in the beef slaughter guideline to state, ''remove horns, pieces of hide and ear drums in a manner to minimize contamination.''

Comment: An industry group expressed concern regarding the ''Best Practices during Carcass Splitting'' section of the guideline. According to the commenter, FSIS recommends removing bruises before carcass splitting, but provides no justification for how removing this material before or after splitting minimizes the risk of STEC and *Salmonella* contamination. The commenter suggested that bruises should be removed at the step in the harvest process most suitable to each individual facility.

Response: In the Agency's experience during inspection, removing organic material, bruises, grubs, and tissue damaged by grubs from the middle area of the back before splitting reduces potential contamination to the split saw, bone, and surrounding tissues. Therefore, FSIS is not making the requested revision.

Comment: An industry group opposed FSIS' recommendation that industry ''sanitize saws and knives between each carcass,'' because, according to the commenter, FSIS provides no explanation as to why this practice effectively reduces STEC and *Salmonella* contamination.

Response: FSIS modified the guideline to clarify that the practice should be done as necessary instead of between each carcass. FSIS recommends that establishments disinfect the splitting saw after each use on suspect, retained, or diseased carcasses to prevent contamination.

[12] The 2014 guideline, Pre-Harvest Management Controls and Intervention Options for Reducing Shiga Toxin-Producing Escherichia coli Shedding in Cattle: An Overview of Current Research can be found at: *https://www.fsis.usda.gov/guidelines/2014-0012.*

Comment: An industry group stated that the best practices in the chilling section of the beef slaughter guideline are outdated and lack a scientific foundation. The commenter noted that the guideline asserts a carcass should begin chilling within one hour of bleed-out to limit pathogen multiplication but does not provide an explanation or supporting data to demonstrate that this practice will effectively minimize STEC or *Salmonella* contamination.

Response: FSIS revised the guideline to clarify that the one-hour timeline is a recommendation and not a regulatory requirement. The recommended one-hour period from bleed-out to the start of chilling corresponds to a period of slower bacterial growth due to new environmental conditions and is based on the ComBase Growth Predictor Model for generic *E. coli.* According to the ComBase Growth Predictor Model for *E. coli,* if the establishment begins chilling the carcass within this time period, then the establishment may be able to minimize microbial growth during the overall chilling process.[13]

Comment: An industry group opposed the guideline's recommendations that hot-boning rooms be maintained at 50 °F or lower and that product should be chilled and maintained at 40 °F or lower. The industry group argued that both recommendations are provided without scientific justification and should be removed from the guideline.

Response: FSIS revised the ''Best Practices During Chilling'' section of the guideline to clarify that establishments may choose to maintain temperatures other than those recommended in the guideline if they have supporting documentation for their chosen temperature limit. The temperature recommended in the guideline of chilling and storage of product at 40 °F or lower is based on the Tompkin paper[14] that shows STEC and *Salmonella* will not grow at product temperatures of 40 °F or less.

The recommendation for maintaining a temperature of 50 °F or less for a hot-boning room is based on minimizing the potential for bacterial growth during processing. Common industry practice has shown that the colder the temperature, the more the risk of bacterial growth decreases. FSIS is not aware of any specific scientific research on environmental temperatures during hot-boning. Establishments are not required to follow this specific temperature recommendation and can use any temperature as long as bacterial growth is prevented.

Comment: An industry group argued that FSIS did not provide a scientific basis for the beef slaughter guideline's recommendation that packers should not hold aged-beef for longer than seven days. The commenter argued that the best practice ignores several considerations (*e.g.,* weekends and holidays), and opens the door for an inspector to conclude product held more than seven days is out of compliance.

Response: FSIS revised the guideline to clarify that holding beef for no more than seven days is a recommendation and not a requirement. FSIS chose seven days based on industry practice and Dr. Bruce Tompkin's estimates of the combined effect of temperature and bacterial content on time of spoilage of beef.[15] The revised guideline explains that establishments may hold carcasses for longer than seven days in the cooler before fabrication if they maintain scientific supporting documentation for cooler parameters that take the holding time into account, which may include: Temperature, humidity, and air flow (see 9 CFR 417.5(a)(1) or 417.5(a)(2)). In addition, FSIS added a section on ''dry aging'' of beef to the guideline.

Comment: An industry group suggested that FSIS remove references to antimicrobial interventions, Hazard Analysis and Critical Control Points (HACCP) verification, and HACCP validation. The commenter argued that FSIS should reference FSIS' HACCP systems validation guideline as essential and complementary to help reduce the risk of *Salmonella* and STEC contamination.

Response: The beef slaughter guideline provides a link to FSIS' *Compliance Guideline on HACCP Systems Validation.*[16] The validation information provided in the beef slaughter guideline is included as a convenience to the reader and is not a replacement of the HACCP systems validation guideline. No revision was made in response to this comment.

STEC Processing Guideline

General

Comment: An industry group opposed FSIS' recommendation that establishments use a single supplier for each lot. The commenter argued that this is impractical, lacks a scientific basis, and that it does not represent typical or practical industry practices. The commenter argued that this recommendation was included in the guideline to simplify Agency traceback investigations.

Response: FSIS revised the text in the beef processing guideline and removed the wording that suggests using single source material is a ''best practice.'' However, it is important to emphasize that this practice does help in traceback and could limit the scope of a recall.

Comment: A very small establishment stated that it would be too difficult for small and very small establishments to implement the testing recommendations in the guideline because of the costs of lot-by-lot testing. The same commenter also stated that using antimicrobial interventions on a day-to-day basis would be difficult because often the amount of product that needs to be produced is unknown.

Response: The beef processing guideline does not create any new regulatory requirements. Instead, the beef processing guideline presents supportable recommendations that establishments can use to address STEC, including having a purchase specification program to get a Certificate of Analysis (COA) on each lot received. If a COA is not available, then FSIS recommends testing each lot of incoming product, testing each lot of finished product, applying a validated antimicrobial intervention, or treating or washing the product and then trimming the outer surface. There is not one ''superior'' antimicrobial intervention for STEC. When searching for an antimicrobial treatment to use as an intervention for STEC, establishments should review the supporting documentation available and choose an intervention based on its overall HACCP system. Establishments must effectively control STEC in their production of non-intact beef products. The financial impact of a recall or illness outbreak associated with a failure to control STEC at the establishment could be much greater than the cost of implementing the recommended prevention strategies. FSIS is not

[13] ComBase Growth Predictor Model for *E. coli* was used to predict the growth of *E. coli.* if the bacterium was deposited onto the sterile carcass surface during the hide removal/dressing steps. The Growth Predictor Model predicts the response of a range of pathogens and spoilage microorganisms characterizing the food environment. The parameters selected were left at the ComBase default values of initial level = 3 log10, pH 7, physiological state as recommended by ComBase, and either water activity at 0.997, or 0.6% NaCl.

[14] The Tompkin paper can be found at: *https://meathaccp.wisc.edu/Model_Haccp_Plans/assets/raw_ground/TompkinPaper.pdf.*

[15] Tompkin, R.B. 1996. The Significance of Time-temperature to Growth of Foodborne Pathogens During Refrigeration at 40–50 °F. Presented during the Joint FSIS/FDA Conference on Time/Temperature. November 18, 1996 Washington, DC. Available at: *https://meathaccp.wisc.edu/Model_Haccp_Plans/assets/raw_ground/TompkinPaper.pdf.*

[16] Available at: *https://www.fsis.usda.gov/guidelines/2015-0011.*

revising the guideline in response to this comment.

Comment: An industry group requested that FSIS consider expanding the usability of the guideline for all beef processing operations, regardless of size.

Response: FSIS has developed these guidelines to help small and very small establishments meet best practice recommendations by FSIS, based on the best scientific and practical considerations. The guidelines are focused on small and very small establishments; however, all FSIS regulated beef slaughter and processing establishments may be able to apply the recommendations in the guidelines. As written, larger establishments may use the guideline. FSIS is not revising the guideline in response to this comment.

Comment: Multiple establishments have sent inquiries to FSIS questioning whether establishments can send product that is positive or presumptive positive for STEC to pet food manufacturers to be processed into animal food product. Although these questions were not submitted specifically as comments on the guidelines, FSIS has addressed the issue in the revisions to the beef processing guideline, as it is the best vehicle to communicate guidance to industry stakeholders.

Response: FSIS has revised the beef processing guidance to clarify that product that is positive or presumptive positive for STEC is eligible to be sent to a pet food manufacturer. FSIS recommends that FSIS-inspected establishments communicate with pet food manufacturers before sending products containing STEC to a pet food manufacturer, so that the pet food manufacturer is aware that the ingredient they are receiving contains a pathogen that will need to be controlled in their finished pet food.

Pet food facilities operate under the jurisdiction of the Food and Drug Administration (FDA). Pet food facilities required to register with the FDA as food facilities must comply with the Preventive Controls for Animal Food (PCAF) regulation, at 21 CFR part 507, unless an exemption applies. Under the PCAF regulation, registered facilities are required, in part, to identify and control any hazards requiring a preventive control that are associated with their incoming ingredients (21 CFR 507.33 and 507.34). As a result, if a pet food facility is receiving ingredients that are or may be positive for STEC, it would be required to identify and evaluate that food safety hazard and implement a preventive control that has been validated to prevent or significantly minimize the hazard (21 CFR 507.34 and 507.47). Pet food facilities exempt from FDA registration requirements or otherwise not subject to the PCAF regulations also have an obligation under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 and 342) not to introduce adulterated pet food into interstate commerce. As a result, FDA expects such facilities to put in place appropriate processes and procedures to ensure that any animal food they produce using ingredients containing microbiological pathogens is not adulterated.

Lymph Nodes and Salmonella

Comment: Three industry groups commented that the beef processing guideline should focus on STEC, not *Salmonella.* These industry groups suggested that all references to *Salmonella,* including the section on lymph node removal, be removed from the document, because they may detract from the purpose of the document and confuse the reader.

Response: While *Salmonella* is a pathogen of public health significance and is associated with raw beef products, FSIS agrees with the commenters that the beef processing guideline is designed to describe the best practices for controlling STEC, not *Salmonella.* Therefore, references to controlling *Salmonella,* including the section on lymph nodes, have been removed from this guideline. *Salmonella* control is still addressed in the beef slaughter guideline and additional information may be incorporated into future *Salmonella* specific guidance materials.

Comment: A consumer group asked if FSIS will continue to allow establishments to use lymph nodes taken from meat products for ''beef patties'' where the ingredients statement discloses that the patties contain byproducts. The commenter urged FSIS to entirely eliminate the exception, or at least require additional disclosure, such as an asterisk on the ingredients statement that is linked to the statement: ''beef byproducts have been shown to contain high levels of pathogenic *Salmonella.* Cook thoroughly.''

Response: FSIS is not changing its labeling policy. FSIS clarifies in its *Food Standards and Labeling Policy Book* [17] that beef patties may contain beef byproducts if the byproducts are included in the ingredients statement and the ingredients statement immediately follows the product name. Additionally, FSIS already requires establishments to label not ready-to-eat inspected product with safe-handling instructions that state ''Cook Thoroughly'' (9 CFR 317.2(l)). FSIS is not adopting the commenter's requested warning statement because it could confuse consumers.

Lymph Nodes

Comment: One consumer group suggested that FSIS should conduct more inspection tasks to verify that processors do not mix highly pathogenic lymphatic tissue into beef products because, according to the consumer group, there is research showing that lymphatic tissue harbors high concentrations of *Salmonella* bacteria. One industry group argued that ''suggesting/requiring'' the removal of ''major'' lymph nodes lacks sound scientific reasoning, and that a ''one size fits all'' approach will not work. Rather, the industry group suggested that each packing establishment should use its data to determine the appropriate best practices regarding lymph nodes.

The industry group further argued that there is currently no research showing that lymph nodes are a source of STEC contamination and therefore, requiring their removal would not reduce STEC contamination on carcasses and final products. Additionally, the industry group argued that multiple peer-reviewed scientific studies illustrate that the prevalence of *Salmonella* is not consistent geographically, seasonally, across production stages, or across individual lymph nodes within each animal. Therefore, the commenter argued that requiring all establishments to remove the six peripheral lymph nodes in all carcasses at all times is not a prudent best practice.

Response: FSIS determined that the inclusion of lymph node removal procedures to assist in the control of *Salmonella* is out of the scope of this document's overall focus on STEC control. Therefore, the Agency removed this section from this document and intends to include it in future guidance materials that focus on *Salmonella* control.

On-Going Verification

Comment: Multiple industry groups suggested that the beef processing guideline over-emphasizes the importance of product testing for on-going verification rather than providing detailed options for processors. The commenters stated that this over-emphasis may lead to FSIS inspectors concluding that product testing is mandatory or is the best and only option

[17] The FSIS Food Standards and Labeling Policy Book can be found at: *https://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES.*

for on-going verification and that FSIS should clarify, in the guideline, that testing is not a regulatory requirement. One commenter suggested that information about alternatives to testing may be helpful to small and very small establishments and should be included in the guideline. Additionally, the same commenters argued that the guideline should provide more examples of on-going verification besides product testing in the ''Scenarios'' section of the guideline. Multiple industry groups commented that supplier verification programs should be mentioned as an alternative to on-going verification.

Response: FSIS did not intend to suggest that testing by the receiving establishment is the only option available. The beef processing guideline was developed to assist small and very small establishments understand STEC controls and verification procedures. The guideline includes detailed discussions on sampling and testing procedures based on the many askFSIS questions that FSIS receives.

In response to comments, FSIS has revised the beef processing guideline to include options for on-going verification other than testing and added an example of on-going verification procedures, other than receiving establishment testing, to Scenario 4. FSIS has modified the ''On-going Verification'' section and the flowchart to include supplier verification programs as a form of verification.

Comment: An industry group argued that the customary cooking section on page four of the beef processing guideline is confusing and recommended that the words ''customary'' and ''customarily'' be removed, as the words have not been adequately defined. The commenter also recommended that the section be segmented into two parts: (1) How the two classes of non-intact products (ground beef and non-intact steak) should be considered regarding cooking instructions and (2) the processing establishment's HACCP plan.

Response: FSIS has revised this section of the guideline, and has divided it into two sections, one on validated cooking instructions and one on customary cooking practices. The Agency did not remove the words ''customary'' or ''customarily'' from the guideline, because they are adequately defined. Additionally, the discussion of customary cooking practices is consistent with the Agency's discussion of customary cooking practices in the January 19, 1999 **Federal Register** notice *Beef Products Contaminated with Escherichia coli O157:H7.*[18] The customary preparation of raw ground beef and non-intact steaks (*i.e.,* cooking to a rare or medium state) does not destroy STEC throughout the product or render the product safe. However, FSIS recognizes that there are some non-intact raw beef products (*e.g.,* raw corned beef) that are customarily cooked by the consumer to a well-done state (*i.e.,* cooked to a time and temperature combination sufficient to destroy STEC throughout the product).

Comment: An industry group suggested that FSIS rewrite the section on outside suppliers to include a more comprehensive discussion of the importance of processing establishments ensuring that their HACCP plans adequately address the use of incoming product for producing non-intact product.

Response: FSIS disagrees with the commenter. The guideline already thoroughly discusses STEC control options for establishments that purchase product slaughtered off-site. For example, the guideline recommends that the receiving establishment have knowledge of the STEC controls applied to the product they are purchasing, as that affects decisions being made in the receiving establishment's HACCP system. FSIS is not revising the guideline in response to this comment.

Comment: Multiple industry groups recommended that FSIS incorporate and reference in the beef processing guideline the recommendations outlined in the November 2016 Beef Industry Food Safety Council (BIFSCO) *Guidance for Purchasers of Raw Beef for Non-Intact Use.* The commenters stated that the BIFSCO Guidance, developed by industry, provides practical guidance to processing establishments producing non-intact product on how to maximize the food safety of raw materials and finished products, as well as how to meet FSIS regulatory requirements. It also includes the components of a supplier verification program.

Response: The beef processing guideline represents FSIS' best practice recommendations and are based on the best scientific and practical considerations. Establishments may choose to adopt different procedures than those outlined in the guideline, such as practices recommended by BIFSCO.[19] FSIS' best practice recommendations are generally consistent with the BIFSCO recommendations. FSIS is not revising the guideline in response to this comment.

Comment: One industry group stated that FSIS should cite the appropriate scientific articles that support the testing frequencies recommended throughout the guideline.

Response: Establishments determine their frequencies for on-going verification procedures based on their specific individual HACCP system. However, the Agency recognizes that small and very small establishments routinely have difficulty in finding scientific support for the frequency of on-going verification procedures as required by 9 CFR 417.5(a)(2). Therefore, the Agency has provided on-going verification frequencies based on past industry practices that provide a safe harbor and starting point for establishments and support for their on-going verification frequency. If an establishment chooses to select an alternative frequency, they may do so if they have supporting documentation for their chosen frequency (see 9 CFR 417.5(a)(2)). As is explained in the guideline, in the absence of an STEC control or preventive measures, establishments cannot rely solely on testing at the frequencies listed in the verification section. FSIS rejects this comment.

Comment: An industry group recommended that FSIS remove the following language from page nine of the beef processing guideline: ''Testing of product provides a statistical confidence that the product is not contaminated with STEC. However, negative test results do not provide 100 percent certainty that the product is not contaminated. For that reason, testing is a verification activity that demonstrates that a HACCP system is functioning as intended rather than a control for pathogens.'' The commenter argued that this language is not pertinent to the discussion on verification testing.

Response: FSIS disagrees with the commenter. The Agency included the information to help small and very small establishments understand that testing alone is not a sufficient control for STEC. FSIS is not revising the guideline in response to this comment.

Comment: An industry group suggested that, on page 10 of the beef processing guideline, FSIS should remove the green call-out box that stated that ''In the absence of a control or prevention measures, it is not appropriate for establishments to apply the recommended minimum frequencies. Without a control or

[18] *Beef Products Contaminated with Escherichia coli O157:H7* can be found at: *https://www.govinfo.gov/content/pkg/FR-1999-01-19/pdf/99-1123.pdf.*

[19] BIFSCO *Guidance for Purchasers of Raw Beef for Non-Intact Use: https://www.bifsco.org/Media/BIFSCO/Docs/guidance_for_purchasers_of_raw_beef_for_non-intact_use_final.pdf.*

preventive measure in place, sampling should occur on a lot-by-lot basis.'' The commenter argued that there are many options to conduct on-going verification activities that do not include product testing for non-intact products.

Response: The green box was revised to emphasize that, in the absence of an STEC control or preventive measures, establishments cannot rely solely on testing at the frequencies listed in the verification section.

Comment: Multiple industry groups opposed FSIS' recommendation of ''frequent sampling at multiple points in the process (*e.g.,* before and after the non-intact processing).'' According to the commenters, testing at this frequency may cause confusion or render lotting documentation null and void. The commenters stated that this approach conflicts with downstream verification testing, conducted to verify that the systems in place have been effective in reducing the pathogens of concern to undetectable levels before the materials are received at the further processor. The commenters further argued that it is unclear how testing before and after non-intact processing provides meaningfully different feedback on supply-side intervention processes and that the establishment should have the flexibility to determine when and where sampling should occur within their HACCP plan to demonstrate process control.

Response: FSIS revised the language in the beef processing guideline to emphasize that sampling and testing should provide evidence regarding the effectiveness of the establishment's HACCP controls.

Comment: An industry group suggested that FSIS revise the last paragraph on page 15 of the beef processing guideline on lotting. The commenter suggested the following revision: ''Following the identification of the affected lot, the establishment is required to ensure that no product that is injurious to health or otherwise adulterated enters commerce. The amount of any additional affected product will be determined based on the establishment's lotting and food safety systems. The implemented corrective actions will depend on whether the positive finding represents a critical control point (CCP) deviation requiring corrective actions per 9 CFR 417.3(a) or an unforeseen hazard requiring corrective actions per 9 CFR 417.3(b).''

Response: FSIS agreed with the commenter and revised the guideline to reflect the commenter's suggestion.

Scenarios

Comment: An industry group recommended that FSIS rewrite Scenario 1 on page 18 to clarify whether the boxed subprimals in the scenario were vacuum packaged and whether the processing establishment went to the supplier's website to determine what food safety documents were available. The commenter argued that these are key points that must be included in the scenario because they reflect the current information the processing establishment would have to consider as they ensure their food safety system is appropriate and meets regulatory requirements. Furthermore, the commenter stated that each of these details would more completely explain the scenario and possibly provide direction to the processing establishment.

Additionally, the same industry group recommended that FSIS should rewrite Scenario 2 on page 18 to clarify whether the boxed beef primals were vacuum packed as it would indicate the supplier did not intend the use to be for non-intact products and whether the certificate of analysis (COA) was received. The industry group noted that intended use of products must be considered by the receiving establishment. The same industry group recommended that FSIS explain in the scenario that no intervention was used. Furthermore, the same industry group stated that if the finished ground beef that tested positive contained trim from these non-intact primals and there was no intervention used to microbially differentiate the non-intact subprimals from the ground beef, FSIS should explain that the Agency may also investigate the need to recall the non-intact subprimals.

Response: FSIS agreed with the commenter and revised Scenario 1 and Scenario 2 to clarify that the boxed subprimals were vacuum packaged and that the receiving establishment was able to obtain a letter of guarantee from each supplier. FSIS did not specifically mention that the receiving establishment obtained the letter of guarantee from a website because producing establishments can also provide the letter via mail or email.

In Scenario 2, FSIS added additional information indicating that the establishment did not apply any antimicrobial interventions. Lotting and microbiological independence are already addressed in the guideline. The focus of Scenario 2 is on establishments developing a HACCP system that addresses materials from multiple sources used in ground beef product and not the response to positive product or recall potential. The guideline contains a separate section on how establishments should respond to positive product.

Non-Intact Classification

Comment: An industry group requested that the beef processing guideline be revised to include cube steak on the list of non-intact products that are ''customarily cooked by the consumer to a well-done state.'' The commenter argued that cubed steak is customarily cooked by consumers to a well-done state and should be included alongside products like meatballs and ''Philly'' style steak.

Response: As FSIS explained in the October 7, 2002 **Federal Register** notice *E. coli O157:H7 Contamination of Beef Products,* there is a lack of data on industry and consumer practices for cooking pinned, needled, and blade tenderized steaks and a lack of data on the proportion of industry outlets and consumers that prepare these products according to each of these different methods.[20] However, establishments have the option of providing support for how their establishment uses the end-product. The HACCP regulations provide establishments the flexibility to design their HACCP system to fit their procedures, processes, and products. Ultimately, the regulations require the establishment to conduct the hazard analysis (9 CFR 417.2(a)), determine the hazard(s) reasonably likely to occur (9 CFR 417.2(a)(1)), conduct on-going verification (9 CFR 417.4), and support the decisions made (9 CFR 417.5(a)(1)). FSIS is not revising the guideline in response to this comment.

Comment: An industry group opposed FSIS categorizing diced beef smaller than three-fourths of an inch in any one dimension as non-intact, putting it into a higher risk category. The commenter argued that FSIS did not conduct an assessment to determine the higher risk surrounding diced products smaller than three-fourths of an inch in any one dimension, and that FSIS should not classify this product as non-intact.

Response: The guideline did not create a new classification for diced beef. In 1999, FSIS published the **Federal Register** notice *Beef Products Contaminated with Escherichia coli O157:H7,* which differentiated intact beef cuts from non-intact products.[21]

[20] *E. coli O157:H7 Contamination of Beef Products* can be found at: *https://www.govinfo.gov/app/details/FR-2002-10-07/02-25504.*

[21] *Beef Products Contaminated with Escherichia coli O157:H7* can be found at: *https://www.govinfo.gov/app/details/FR-1999-01-19/99-1123.*

The meat interior of intact beef cuts remains protected from pathogens migrating below the exterior surface. Pathogens may be introduced below the surface of non-intact beef cut as a result of the processes by which they are made. FSIS considers diced beef products (beef cubes) of less than three-fourths of an inch to *exhibit the same food safety characteristics* as raw non-intact beef products. Similar to ground beef, when cubes are made smaller-and-smaller, the cubes begin to stick (or clump) together, allowing pathogens previously restricted only to the exterior of the meat to be distributed throughout the mass (or clump) of cubes. FSIS is not revising the guideline in response to this comment.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.* FSIS also will make copies of this publication available through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

Congressional Review Act

Pursuant to the Congressional Review Act at 5 U.S.C. 801 *et seq.,* the Office of Information and Regulatory Affairs has determined that this notice is not a ''major rule,'' as defined by 5 U.S.C. 804(2).

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Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done in Washington, DC.

Paul Kiecker,

Administrator.

[FR Doc. 2021–15274 Filed 7–16–21; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Modoc County Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Modoc County Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or teleconference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as make recommendations on recreation fee proposals for sites on or benefitting the Modoc National Forest within Modoc County, California, consistent with the Federal Lands Recreation Enhancement Act. RAC information and virtual meeting information can be found at the following website: *https://www.fs.usda.gov/main/modoc/workingtogether/advisorycommittees.*

DATES: The meeting will be held on August 25, 2021 at 4:00 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For meeting status prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtually. Attendees can join via telephone conference by dialing 323–886–7051 with pass code 993916790# and/or via video conference link: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTEyNzNmM2ItMTVhYi00ZGQ3LTg1YmQtYWY2Mjk1ZTk5YWE5%40thread.v2/0?context=%7b%22Tid%22%3a%22ed5b36e7-01ee-4ebc-867e-e03cfa0d4697%22%2c%22Oid%22%3a%22acedd9e6-fe59-4fec-8e11-244c6d1d8148%22%7d.*

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Chris Christofferson, Designated Federal Officer (DFO), by phone at 530–233–8700 or email at *chris.christofferson@usda.gov* or Ken Sandusky at 530–233–8713 or email at *kenneth.sandusky@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Hear from possible Title II project proponents and discuss project proposals;
2. Plan for project solicitation and replacment member recruitment;
3. Review old projects' meeting minutes; and
4. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by August 16, 2021, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file

written statements with the committee via the Modoc National Forest staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Modoc County RAC, 225 W 8th St., Alturas, CA, 96101 or by email to *kenneth.sandusky@usda.gov*.

Meeting Accommodations: If you require reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: July 13, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–15216 Filed 7–16–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will meet virtually via Microsoft Teams. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

DATES: The meetings will be held on:

- Monday, August 9, 2021, at 4:30 p.m., Pacific Daylight Time; and
- Monday, August 23, 2021, at 4:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtually via Microsoft Teams.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Weaverville Ranger Station. Please call ahead at 530–623–2121 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lejon Hamann, RAC Coordinator, by phone at 530–410–1935 or via email at *lejon.hamann@usda.gov.*

Individuals who use telecommunication devices for the hearing-imparied (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the following:

1. Roll call;
2. Comments from the Designated Federal Official (DFO);
3. Public comment period;
4. Approve minutes from last meeting;
5. Forest Service specialists' presentations;
6. Proposed project presentations;
7. Discuss, recommend, and approve proposed projects; and
8. Closing comments from the DFO.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by the Thursday before each scheduled meeting to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the committee's attention may file written statements with committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lejon Hamann, RAC Coordinator, 3644 Avtech Parkway, Redding, California 96002 or by email to *lejon.hamann@usda.gov.*

Meeting Accommodations: If you require reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case-by-case basis.

Dated: July 13, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–15212 Filed 7–16–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet virtually via Microsoft Teams. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/klamath/workingtogether/advisorycommittees.*

DATES: Meetings will be held on:

- Thursday, August 12, 2021, at 11:00 a.m., Pacific Daylight Time; and
- Thursday, August 26, 2021, at 11:00 a.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtually via Microsoft Teams.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Mt. Shasta Ranger Station. Please call ahead at 530–926–4511 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lejon Hamann, RAC Coordinator, by phone at 530–410–1935 or via email at *lejon.hamann@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following:

1. Roll call;
2. Comments from the Designated Federal Official (DFO);
3. Public comment period;
4. Approve minutes from last meeting;

5. Forest Service specialists' presentations;
6. Proposed project presentations;
7. Discuss, recommend, and approve proposed projects; and
8. Closing comments from the DFO.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by the Tuesday before each scheduled meeting to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lejon Hamann, RAC Coordinator, 3644 Avtech Parkway, Redding, California 96002; or by email to *lejon.hamann@usda.gov.*

Meeting Accommodations: If you require reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: July 13, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–15208 Filed 7–16–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Shasta County Resource Advisory Committee (RAC) will meet virtually via Microsoft Teams. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

DATES: The meetings will be held on:

- Wednesday, August 11, 2021, at 10:00 a.m., Pacific Daylight Time; and
- Wednesday, August 25, 2021, at 10:00 a.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For meeting status prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held virtually via Microsoft Teams.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Shasta Lake Ranger Station. Please call ahead at 530–275–1587 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lejon Hamann, RAC Coordinator, by phone at 530–410–1935 or via email at *lejon.hamann@usda.gov.*

Individuals who use telecommunication devices for the hearing-imparied (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:
1. Roll call;
2. Comments from the Designated Federal Officer (DFO);
3. Public comment period;
4. Approve minutes from last meeting;
5. Forest Service specialists' presentations;
6. Proposed project presentations;
7. Discuss, recommend, and approve proposed projects; and
8. Closing comments from the DFO.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by the Friday before each scheduled meeting to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lejon Hamann, RAC Coordinator, 3644 Avtech Parkway, Redding, California 96002 or by email to *lejon.hamann@usda.gov.*

Meeting Accommodations: If you require reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: July 13, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–15211 Filed 7–16–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fishlake Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Fishlake Resource Advisory Committee (RAC) will hold two virtual meetings by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as make recommendations on recreation fee proposals for sites on the Fishlake National Forest within Sevier County, Utah, consistent with the Federal Lands Recreation Enhancement Act. RAC information and virtual meeting information can be found at the following website: *https://www.fs.usda.gov/main/fishlake/workingtogether/advisorycommittees.*

DATES: The meetings will be held on August 10, 2021 and August 16, 2021, at 6:30 p.m., Mountain Daylight Time.

All RAC meetings are subject to cancellation. For meeting status prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held virtually.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Dan Child, Designated Federal Officer (DFO), by phone at 435–979–1762 or email at *daniel.child@usda.gov* or Kendal Nelson at 435–491–0079 or email at *kendall.nelson@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to:

1. Review RAC charter and elect RAC chairperson;
2. Review project proposals;
3. Make funding recommendations on Title II projects; and
4. Schedule the next meeting.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by July 15, 2021 to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with committee staff before or after the meetings. Written comments and requests for time for oral comments must be sent to the Fishlake National Forest, Attn: Dan Child, 115 East 900 North, Richfield, UT or by email to *daniel.child@usda.gov*.

Meeting Accommodations: If you require reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: July 13, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–15213 Filed 7–16–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Alabama Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Alabama Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as make recommendations on recreation fee proposals for sites on the National Forest in Alabama, consistent with the Federal Lands Recreation Enhancement Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/alabama/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Tuesday, August 10, 2021 and is scheduled from 9:00 a.m.–12:00 p.m. Central Daylight Time.

All RAC meetings are subject to cancellation. For meeting status prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtually via Microsoft Teams web link and conference call line.

Conference Call Line: 1–888–844–9904 (Passcode: 9178016)

Meeting Link: Alabama RAC 2021 Meeting

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Supervisor's Office in Montgomery, Alabama. Please call ahead at 334–241–8173 to set an appointment and to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Sheila Holifield, RAC Coordinator, by phone at 334–235–5494 or via email at *sheila.holifield@usda.gov;* or Tammy Freeman Brown, Designated Federal Officer, by phone at 334–315–4926 or via email at *tammy.freemanbrown@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Introduce new RAC Members;
2. Discuss the purpose of RAC operating guidelines and responsibilities;
3. Elect a RAC Chairperson;
4. Discuss previously approved projects, potential projects, and processes; and
5. Schedule next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by Tuesday, August 3, 2021, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the RAC may file written statements with RAC staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Sheila Holifield, RAC Coordinator by email to *sheila.holifield@usda.gov.*

Meeting Accommodations: If you require reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: July 13, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–15209 Filed 7–16–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–21–MFH–0010]

Notice of Request for Revision of a Currently Approved Information Collection; Comments Requested

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named agency to request Office of Management and Budget's (OMB) approval for a revision of a currently approved information collection in support of the Rural Rental Housing Program.

DATES: Comments on this notice must be received by September 17, 2021.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Rural Development

Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, Room 4227, South Building, Washington, DC 20250–1522. Telephone: (202)720–2825. Email *arlette.mussington@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RBS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''RHS'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RHS–21–MFH–0010 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Title: Rural Renting Housing.

OMB Number: OMB No. 0575–0189.

Expiration Date of Approval: October 31, 2021.

Type of Request: Revision of a currently approved information collection.

Abstract: The Rural Rental Housing program provides adequate, affordable, decent, safe, and sanitary rental units for very low-, low-, and moderate-income households in rural areas. The programs covered by this part are authorized by title V of the Housing Act of 1949 and are: (1) *Section 515 Rural Rental Housing, which includes congregate housing, group homes, and Rural Cooperative Housing.* The Section 515 direct loan program provides financing to support the development of rental units in rural areas that need housing affordable to very low-, low-, and moderate-income households, and where this housing is unlikely to be provided through other means. (2) *Sections 514 and 516 Farm Labor Housing loans and grants.* Section 514/516 direct loan and grant programs provide funds to support the development of adequate, affordable housing for farm workers that is unlikely to be provided through other means. (3) *Section 521 Rental Assistance.* A project-based tenant rent subsidy which may be provided to Rural Rental Housing and Farm Labor Housing facilities.

Information is completed by developers and potential borrowers seeking approval of rural rental housing loans with the assistance of professionals such as attorneys, architects, and contractors and the operation and management of the MFH properties in an affordable decent, safe and sanitary manner. The forms and information provide the basis for making determinations of eligibility and the need and feasibility of the proposed housing. The information provides the basis for determining that rents charged are appropriate, the housing is well-maintained, and proper priority is given to those tenants eligible for occupancy. Information is collected to assure compliance with the terms and conditions of loan, grant and/or subsidy agreements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .49 hours per response.

Respondents: Individuals, corporations, associations, trusts, Indian tribes, public or private nonprofit organizations, which may include faith-based, consumer cooperative, or partnership.

Estimated Number of Respondents: 589,500.

Estimated Number of Responses per Respondent: 2.02.

Estimated Number of Responses: 2,249,060.

Estimated Total Annual Burden on Respondents: 1,113,900 hours.

Copies of this information collection can be obtained from Arlette Mussington, Innovation Center—Regulations Management Division, at (202) 720–2825. Email: *arlette.mussington@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Chadwick Parker,

Acting Administrator, Rural Housing Service.

[FR Doc. 2021–15231 Filed 7–16–21; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Friday August 6, 2021 at 1:00pm Central time. The Committee will hear testimony regarding IDEA compliance and implementation in Arkansas schools.

DATES: The meeting will take place on Friday August 6, 2021 at 1:00 p.m. Central.

Public Access Information:

- *Register online (Audio/visual): https://bit.ly/3hSnEwk.*
- *Phone access (audio only):* 800–360–9505 USA Toll Free; Access code: 199 366 3521.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Members of the public may observe Committee meetings through the above online access link or call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons who are deaf, deafblind, or hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the 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 Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 618–4158.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arkansas 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 Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
IDEA Compliance and Implementation in Arkansas Schools
Public Comment
Adjournment

Dated: July 14, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–15288 Filed 7–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–54–2021]

Foreign-Trade Zone (FTZ) 75—Phoenix, Arizona, Notification of Proposed Production Activity, Nikola Corporation, (Electric Road Tractors and Motor Vehicles), Coolidge, Arizona

Nikola Corporation (Nikola) submitted a notification of proposed production activity to the FTZ Board for its facility in Coolidge, Arizona. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on July 12, 2021.

The Nikola facility is located within Subzone 75M. The facility will be used for production of battery-electric and hydrogen-electric vehicles. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Nikola from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Nikola would be able to choose the duty rates during customs entry procedures that apply to electric road tractors for semi-trailers, and electric motor vehicles for the transport of goods (duty rate ranges from 4.0 to 25.0%). Nikola would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Polyester-based paints; acrylic or vinyl polymer-based paints and varnishes; prepared water pigments; silicone and hydrophilic sealants; pastes (epoxide resin-based; adhesive); instant glues; coolants; thermally conductive greases and pastes; plastic baffle inserts; tubes, pipes, and hoses (rigid ethylene; rigid propylene; rigid plastic; flexible plastic; not reinforced plastic without fittings; reinforced plastic; not reinforced vulcanized rubber with or without fittings; rubber with fittings reinforced with metal, or textile materials, or materials other than metal or textiles; rubber without fittings reinforced with textile materials, or materials other than metal or textiles); plastic components (brake hose fittings; fittings; lids; caps; plugs; stoppers; plates; bushings; spacers; buttons; clips; ties; gaskets; seals; washers; O-rings; handles; knobs; shrouds; panels; guards; housings; insulators; moldings; protectors; mats; trays; pads; cable supports; brackets; fasteners; covers; capacitors; gap pads; bumpers; bumper covers, end caps, wings, panels, air inlets, grills, fascia, sides, and lower trim); electrical tape; self-adhesive components (strips; tape; rolls of plastic; vitrifiable transfer labels; labels); propylene sheets, plates, foils, strips, and film; cellular polyurethane plates, sheets, and film; synthetic rubber in plates, strips, or sheets; vulcanized rubber components (endless transmission belts; transmission belts; seals; insulators; O-rings; washers; gaskets; grommets; rings; bellows; dampers; diaphragms; boots; clips; cups; mats or cushions; valves; bonnets; covers; insulation; wiper refills; shock absorbers; spring isolators; handles; mounts; bushings; caps; plugs; knobs; stoppers); tires (pneumatic or retreaded pneumatic for use on trucks; solid or cushion); rubber inner tubes; cellular rubber pads and seals; rubber floor mats; cork gaskets and packing; not printed paper or paperboard labels; coated paper or paperboard gaskets and packing; manuals (operational; service; printed); tufted carpet; canvas rain guards; gaskets (graphite; carbon; combined metal and paper, metal and rubber, and metal and plastic); safety glass (tempered; laminated); mirrors (rear view; framed glass); glass lenses for headlamps; glass fiber engine insulation; glass fiber insulators; assemblies (insulation; lock; hinge; caster; oil pump drive spindle; stators or rotor; hose; relief and safety valve; solenoid valve; bearing; flange; drive unit; gear; pulley; clutch; yoke; armature; holder; charger; converter; rectifier; magnet; lead-acid storage battery; turn signal lamp; heater; buzzer; flasher unit; horn; display; headlamp; LED headlamp; regulator; brush; crossmember; brake; control arm; power steering; steering shaft; thermostat switch; electrical pressure sensor; airflow meter; indicator; speed sensor; hour meter; meter housing; thermostat); wire (zinc-coated or plated; aluminum alloy; magnet); steel components (sheet; mesh; retainer plates; bumper fold-up steps and hooks; bumper beams, cross members, bridges, and reinforcements); iron or steel components (tubes; pipes; fittings with mechanical, push-on, or flanged joints; pipe or tube adapters, joints, or unions; pipe or tube connectors, nipples, and connector assemblies; threaded adapters, connectors, and connector assemblies; cables; roller chain; chain; master chain links; leaf chain; lifting chains; threaded self-tapping screws; machine screws; screws; bolts; threaded bolts or studs; U-bolts; threaded nuts; threaded plugs; spring or lock washers; washers; rivets; collars; split pins; snap rings; cotters; dowels; dowel pins; plug and pin assemblies; woodruff keys; rings; leaf springs; helical springs; springs; links; bands; adjuster bars; caps; clamps; clevis pins; connectors; rods and rod assemblies; bushings; grommets; cable guides; clips; plugs; hose bands; retainer plates); iron or nonalloy steel pipe or tube flanges and flange assemblies; iron, alloy, or nonalloy steel components (threaded couplings or elbows; adapters, connectors, nipples, and connector assemblies); copper components (profiles; bars; rods; plates; foil; threaded tube and pipe fittings; washers; ferrules; gaskets; seals; plugs; pin receptacles; springs; insulated cables or wires); brass components (standoffs; clamps); nickel plates; aluminum components (bars; profiles; rods; wire; plates; sheets; tubes; pipes; tube and pipe fittings; spacers; plugs; connectors; clips; clamps; pins; forgings; capacitors); base metal locks; lock

cylinders and keys; locks; ignition keys; hinges; swivel casters; iron, steel, aluminum, or zinc components (hinges; latches; handles; anchors; backing plates; brackets; mountings; fittings); base metal plates; pumps (lubricating or cooling centrifugal; reciprocating positive displacement; vacuum); electromechanical brake boosters; oil pump housings; brake fluid reservoirs; fans (cooling; vent); compressors and related components (housings; discharge fittings; tubes); breathers; mufflers; fan blades; fan spacers; stators; rotors; air conditioners and related components (motors; fans; valve expansions; condensers); battery components (chillers; isolators; exhaust ducts; sensors); coolant heaters; heat exchangers; heat exchanger coil springs; cooling tubes; filters (air; gas separation); weighing machinery and sensors; fire extinguishers; windshield washer components (reservoirs with motors; nozzles); hoists; winches; jacks; external drive units; hydraulic accumulators; valves (intake; exhaust; oleohydraulic or pneumatic transmission; oil check; pressure relief; hand operated control); dampeners and damper dust boots; valve bodies; coolant manifolds; bearings (ball; roller lift ball; sprocket and flange; wheel; single row spherical roller; needle roller; cylindrical roller; side roller; main); mast side rollers; tapered roller bearings, cones, and cups; bearing components (balls; needles; cones; cups); camper link bushings; sprockets; gears, gear pinions, and gearing; pulleys; clutches; universal joints; yokes; pinion spacers; shims, sleeves, and sprockets; plugs (vent; drain; oil; end); covers for transmission and gearbox components; mechanical seals; motors (electric under 18.65W; AC/DC; DC to an output of 750W; DC of an output from 750W to 75kW; AC multi-phase); window lift mechanisms; armature; motor brush, front, and bearing covers; holders; electric motor carbon brush holders; motor sensor housings; spring brushes; ground terminals; transformers; inverter unit drives; power supplies, inverters, and rectifiers; speed drive controllers; voltage components (regulators; current regulators; advancers; limiters; overload protectors); power inductors; ferrite beads; inverter heat sinks; magnets; sensors (magnet input; occupant detection; pressure; temperature; water temperature; lock or brake; meter; oxygen; air suspension); electromagnetic couplings, clutches, and brakes; lead-acid storage batteries; lithium-ion batteries and related components (packs; cells; side rails; module insulators); lead acid battery cells; distribution control systems; modules (electrical ignition; damper spring; airbag); condensers; vehicle lighting and headlamps; vehicle visual signaling lighting; vehicle horns; radar detectors; windshield wipers; defrosters and demisters; wiper arms and blades; light bulbs; lenses and lens assemblies for automotive signaling or lighting equipment; water and immersion heaters; microphones; loudspeakers (single; multiple); headphones and earphones; audio amplifiers; speaker grills; park assist and rearview cameras; navigational equipment; GPS tracking devices; radio broadcast receivers; antennae; combination meters and meter panels; indicator panels incorporating LCDs or LEDs; capacitors (fixed; ceramic single layer dielectric; ceramic multi-layer dielectric); resistors (fixed film or composition; fixed; variable); potentiometers; rheostats; thermistors; circuit boards (printed; populated); switches (isolating or make-and-break; push button; knife; rotary; snap-action; slide; limit; electronic); lighting arresters and surge suppressors; connectors (sensor; electrical; battery or charger); connector housings; snap plug receptacles; male and female bullet terminals; fuses; contactors and relays (for a voltage up to 60V; for a voltage over 60V); motor starters; lamp sockets; bus bars; electrical panel insulators; terminal blocks, lugs, and plates; junction boxes; boards, panels, modules, and controllers and control assemblies; switchboards; fuse boxes; contact tips and plates; contactor bases; fuse holders; headlamps; turn indicator, rear turn, reverse, stop, and tail lamps; LED headlamps; diodes; thyristors; LED diodes; transistors; speed controls and speed sensors; dashboard displays; equalizers; wiring harnesses and ignition wiring sets; electrical cables with connectors; brushes; chassis with engines; chassis with engines and cabs; vehicle cabs and chassis; seatbelts; air ducts; fenders and rocker panels; glove compartment doors; hoods; interior door trim and moldings; plastic foam separators and spacers; silicon rubber and plastic vents; seatbelt adjusters; brake components (calipers; cantilevers; discs; rotors; drums; pads; rotor shields; spacers); mounted brake linings; motor gear cases and boxes; gear shims; axles with differentials; road wheels for motor vehicle use; ball joints; struts; suspension systems; axle damper forks; spindles; shock absorbers; suspension knuckles; ride height sensor drop links; radiators; radiator shrouds; exhaust components (systems; manifolds; silencers); intake systems; clutches; steering components (columns; wheels; boxes; knuckles; gear housing levers); drop links and stabilizer bars; safety airbags; pedals (accelerator; foot); thermometers; water gauges; sensor covers; tube guides for measurement instruments; revolution counters; hour meters; speedometers; tachometers; meter housings; pressure switches (manostats); motor vehicle seats; upholstered metal frame seats; seat backs, cushions, frames, and seating; and, plastic seat foam (duty rate ranges from duty-free to 9.0%). The request indicates that the following components will be admitted to the zone in privileged foreign (PF) status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items: Tufted carpet; canvas rain guards; motor vehicle seats; upholstered metal frame seats; and, seatbacks, cushions, frames and seating. The request indicates that new pneumatic tires, lock washers, aluminum extrusions, and tapered roller bearings and parts are subject to an antidumping/countervailing duty (AD/CVD) order if imported from certain countries. The FTZ Board's regulations (15 CFR 400.14(e)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in PF status. The request also indicates that certain materials/components are subject to duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) or Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in PF status.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 30, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov* or 202–482–1378.

Dated: July 13, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–15267 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–52–2020]

Foreign-Trade Zone (FTZ) 38—Spartanburg County, South Carolina; Application for Production Authority; Teijin Carbon Fibers, Inc.; (Polyacrylonitrile-based Carbon Fiber); Invitation for Public Comment

In response to a request from Hexcel Corporation, the FTZ Board is inviting public comment on the rebuttal submission of Teijin Carbon Fibers, Inc. (TCF) (dated July 1, 2021) pursuant to 15 CFR 400.32(c)(2). The rebuttal submission was presented in the context of the FTZ Board's consideration of the pending application, as amended, requesting certain authority for TCF to produce polyacrylonitrile-based carbon fiber at its facility in Greenwood, South Carolina. In response to this invitation for public comment, parties may also address argument or evidence presented in the application and in other parties' direct and rebuttal comment submissions in earlier comment periods in this proceeding.[1] The application and parties' submissions may be viewed in the Online FTZ Information System on the FTZ Board's website (accessible via *www.trade.gov/ftz*).

Public comment is invited from interested parties. The closing period for their receipt is August 18, 2021. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 2, 2021. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: July 14, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–15266 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 19, 2021.

FOR FURTHER INFORMATION CONTACT: John Hoffner, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230, telephone: (202) 482–3315.

SUPPLEMENTARY INFORMATION: On May 12, 2021, the Department of Commerce (Commerce), pursuant to section 702(h) of the Trade Agreements Act of 1979 (as amended) (the Act), published the quarterly update to the annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty covering the period September 1, 2020, through December 31, 2020.[1] In the *Fourth Quarter 2020 Update,* we requested that any party that has information on foreign government subsidy programs that benefit articles of cheese subject to an in-quote rate of duty submit such information to Commerce.[2] We received no comments, information, or requests for consultation from any party.

Pursuant to section 702(h) of the Act, we hereby provide Commerce's update of subsidies on articles of cheese that were imported during the period January 1, 2021, through March 31, 2021. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

Commerce will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed. Commerce encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing through the Federal eRulemaking Portal at *http://www.regulations.gov,* Docket No. ITA–2020–0005, ''Quarterly Update to Cheese Subject to an In-Quota Rate of Duty.'' The materials in the docket will not be edited to remove identifying or contact information, and Commerce cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only. All comments should be addressed to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: July 13, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross[3] subsidy ($/lb)	Net[4] subsidy ($/lb)
27 European Union Member States[5]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.44	0.44
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
	Total	0.00	0.00
Switzerland	Deficiency Payments	$ 0.00	$ 0.00

[1] 85 FR 49359, August 13, 2020; 85 FR 81875, December 17, 2020; 86 FR 23672, May 4, 2021.

[1] *See Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty,* 86 FR 26010 (May 12, 2021) (*Fourth Quarter 2020 Update*).

[2] *Id.*

[3] Defined in 19 U.S.C. 1677(5).

[4] Defined in 19 U.S.C. 1677(6).

[5] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

[FR Doc. 2021–15261 Filed 7–16–21; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–908, A–583–869, A–549–842]

Passenger Vehicle and Light Truck Tires From the Republic of Korea, Taiwan, and Thailand: Antidumping Duty Orders and Amended Final Affirmative Antidumping Duty Determination for Thailand

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty orders on passenger vehicle and light truck tires (passenger tires) from the Republic of Korea (Korea), Taiwan, and Thailand. In addition, Commerce is amending its final determination with respect to passenger tires from Thailand to correct a ministerial error.

DATES: Applicable July 19, 2021.

FOR FURTHER INFORMATION CONTACT: Elfi Blum at (202) 482–0197 (Korea); Lauren Caserta at (202) 482–4737 (Taiwan); and Leo Ayala at (202) 482–3945 (Thailand) AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended (the Act), on May 27, 2021, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of passenger tires from Korea, Taiwan, and Thailand.[1] In the investigation of passenger tires from Thailand, Sumitomo Rubber (Thailand), Ltd. (SRT) submitted a timely allegation on the record that Commerce made ministerial errors in the final AD determination.[2] We reviewed the allegation and determined that we made ministerial errors in the final AD determination on passenger tires from Thailand. *See* ''Amendment to the Final Determination for Thailand'' section below for further discussion. On July 12, 2021, the ITC notified Commerce of its final determinations, pursuant to section 735(d) of the Act, that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of passenger tires from Korea, Taiwan, and Thailand.[3]

Scope of the Orders

The products covered by these orders are passenger tires from Korea, Taiwan, and Thailand. For a complete description of the scope of these orders, *see* the appendix to this notice.

Amendment to the Final Determination for Thailand

On June 2, 2021, Sumitomo Rubber (Thailand) Co., Ltd. (SRT) timely alleged that Commerce made certain ministerial errors in the *Thailand Final Determination* with respect to the duty margin assigned to SRT in the passenger tires from Thailand investigation.[4] No other party made an allegation of ministerial errors or submitted a rebuttal to SRT's ministerial error allegation under 19 CFR 351.224(c)(3). Commerce reviewed the record and, on July 12, 2021, agreed that the errors alleged by SRT constituted ministerial errors within the meaning of section 735(e) of the Act and 19 CFR 351.224(f).[5] Specifically, Commerce found that it made inadvertent errors in calculating SRT's variable cost of manufacturing and by incorrectly identifying in the margin program which data files to use in calculating SRT's final dumping margin. Pursuant to 19 CFR 351.224(e), Commerce is amending the *Thailand Final Determination* to reflect the correction of the ministerial errors, as described in the Ministerial Error Memorandum.[6] Based on the corrections, SRT's final dumping margin rate changed from 14.62 percent to 14.59 percent. As a result, we are also revising the all-others rate from 17.08 percent to 17.06 percent. The amended estimated weighted-average dumping margins are listed in the ''Estimated Weighted-Average Dumping Margins'' section below.

Antidumping Duty Orders

On July 12, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured by reason of imports of passenger tires from Korea, Taiwan, and Thailand.[7] Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing these antidumping duty orders. Because the ITC determined that imports of passenger tires from Korea, Taiwan, and Thailand are materially injuring a U.S. industry, unliquidated entries of such merchandise from Korea, Taiwan, and Thailand, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of passenger tires from Korea, Taiwan, and Thailand. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determinations, as further described below, antidumping duties will be assessed on unliquidated entries of passenger tires from Korea, Taiwan, and Thailand, entered, or withdrawn from warehouse, for consumption, on or after January 6, 2021, the date of publication of the *Preliminary Determinations*.[8]

[1] *See Passenger Vehicle and Light Truck Tires from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 28569 (May 27, 2021); *Passenger Vehicle and Light Truck Tires from Taiwan: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 28563 (May 27, 2021); *Passenger Vehicle and Light Truck Tires from Taiwan: Final Affirmative Determination of Sales at Less Than Fair Value; Correction,* 86 FR 30916 (June 10, 2021); and *Passenger Vehicle and Light Truck Tires from Thailand: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 28548 (May 27, 2021) (*Thailand Final Determination*).

[2] *See* SRT's Letter, ''Passenger Vehicle and Light Truck Tires from Thailand: Ministerial Error Comments,'' dated June 2, 2021 (Ministerial Error Allegation).

[3] *See* ITC Notification Letter, Investigation Nos. 701–TA–647 and 731–TA–1517–1520 (Final), dated July 12, 2021 (ITC Notification Letter).

[4] *See* Ministerial Error Allegation.

[5] *See* Memorandum, ''Antidumping Duty Investigation of Passenger Vehicle and Light Truck Tires from Thailand: Allegation of Ministerial Errors in the Final Determination,'' dated concurrently with this **Federal Register** notice (Ministerial Error Memorandum).

[6] *Id.*

[7] *See* ITC Notification Letter.

[8] *See Passenger Vehicle and Light Truck Tires from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 501 (January 6, 2021); *Passenger Vehicle and Light Truck Tires from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 508 (January 6, 2021); *Passenger Vehicle and Light Truck Tires from Taiwan: Amended Preliminary Determination of Sales at Less Than Fair Value,* 86 FR 8885 (February 10, 2021); and *Passenger Vehicle and Light Truck Tires from Thailand: Preliminary*

Continued

Continuation of Suspension of Liquidation and Cash Deposits

Except as noted in the ''Provisional Measures'' section of this notice, in accordance with section 735(c)(1)(B) of the Act, Commerce will instruct CBP to continue to suspend liquidation on all relevant entries of passenger tires from Korea, Taiwan, and Thailand. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the rates listed in the table below. The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

KOREA

Exporter/producer	Estimated weighted-average dumping margin (percent)
Hankook Tire & Technology Co. Ltd	27.05
Nexen Tire Corporation	14.72
All Others	21.74

TAIWAN

Exporter/producer	Estimated weighted-average dumping margin (percent)
Cheng Shin Rubber Ind. Co. Ltd	20.04
Nankang Rubber Tire Corp. Ltd	101.84
All Others	84.75

THAILAND

Exporter/producer	Estimated weighted-average dumping margin (percent)
LLIT (Thailand) Co., Ltd	21.09
Sumitomo Rubber (Thailand) Co., Ltd	14.59
All Others	17.06

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of passenger tires from Korea, Taiwan, and Thailand, Commerce extended the four-month period to six months in each of these investigations. Commerce published the preliminary determinations in these investigations on January 6, 2021.[9]

The extended provisional measures period, beginning on the date of publication of the *Preliminary Determinations,* ended on July 4, 2021. Therefore, in accordance with section 733(d) of the Act and our practice,[10] Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of passenger tires from Korea, Taiwan, and Thailand entered or withdrawn from warehouse, for consumption after July 4, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to passenger tires from Korea, Taiwan, and Thailand pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

The amended final determination and these antidumping duty orders are published in accordance with sections 735(e) and 736(a) of the Act and 19 CFR 351.224(e) and 19 CFR 351.211(b).

Dated: July 13, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The scope of these orders is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by these orders may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol ''DOT'' on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a ''P'' or ''LT'' prefix, and all tires with an ''LT'' suffix in their sidewall markings are covered by these orders regardless of their intended use.

In addition, all tires that lack a ''P'' or ''LT'' prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) Racing car tires; such tires do not bear the symbol ''DOT'' on the sidewall and may be marked with ''ZR'' in size designation;

Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures, 86 FR 517 (January 6, 2021) (collectively, *Preliminary Determinations*).

[9] *Id.*

[10] *See, e.g., Certain Corrosion-Resistant Steel Products from India, India, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390, 48392 (July 25, 2016).

(2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT–1R (''T'' Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT–1B (''T'' Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation ''T'' is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a ''M'' rating;

(5) tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:

(a) The tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 245/70R18, or 265/70R18 size designation;

(b) ''Temporary Use Only'' or ''Spare'' is molded into the tire's sidewall;

(c) the tread depth of the tire is no greater than 6.2 mm; and

(d) Uniform Tire Quality Grade Standards (''UTQG'') ratings are not molded into the tire's sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation ''ST'' is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is ''For Trailer Service Only'' or ''For Trailer Use Only'',

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an ''M'' rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an ''N'' rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is ''Not For Highway Service'' or ''Not for Highway Use'',

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a ''G'' rating, and

(d) the tire features a recognizable off-road tread design;

(8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:

(a) The tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an ''N'' rating, and

(b) both of the following physical characteristics are satisfied:

(i) The size designation and load index combination molded on the tire's sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and

(ii) The size designation and load index combination molded on the tire's sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American standard size	Metric size	Load index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
30x10R14	254/80R/14	79
30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
32x10R15	254/85R/15	83
32x10R15	254/85R/15	94
33x10R15	254/90R/15	86
33x10R15	254/90R/15	95
35x9.50R15	241/105R/15	82
35x10R15	254/100R/15	97

The products covered by these orders are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2021–15270 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–829]

Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing a countervailing duty order on passenger vehicle and light truck tires from the Socialist Republic of Vietnam (Vietnam).

DATES: Applicable July 19, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 777(i) of the Tariff Act of 1930, as amended (the Act), on May 27, 2021, Commerce published its affirmative final determination that countervailable subsidies are being provided to producers and exporters of passenger vehicle and light truck tires from Vietnam.[1] On July 12, 2021, the ITC notified Commerce of its affirmative final determination that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of

[1] *See Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination,* 86 FR 28566 (May 27, 2021), and accompanying Issues and Decision Memorandum.

subsidized imports of passenger vehicle and light truck tires from Vietnam.[2]

Scope of the Order

The product covered by this order is passenger vehicle and light truck tires from Vietnam. For a complete description of the scope of the order, *see* the appendix to this notice.

Countervailing Duty Order

On July 12, 2021, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured by reason of subsidized imports of passenger vehicle and light truck tires from Vietnam.[3] Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this countervailing duty order. Because the ITC determined that imports of passenger vehicle and light truck tires from Vietnam are materially injuring a U.S. industry, unliquidated entries of such merchandise from Vietnam, which are entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of passenger vehicle and light truck tires from Vietnam. With the exception of entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final affirmative injury determination, as further described below, countervailing duties will be assessed on unliquidated entries of passenger vehicle and light truck tires from Vietnam, entered, or withdrawn from warehouse, for consumption on or after November 10, 2020, the date of publication of the *Preliminary Determination.*[4]

Suspension of Liquidation and Cash Deposits

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute the suspension of liquidation of passenger vehicle and light truck tires from Vietnam, as described in the appendix to this notice, effective on the date of publication of the ITC's notice of final affirmative determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would deposit estimated normal customs duties on this merchandise, a cash deposit equal to the rates listed in the table below. The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

Company	Subsidy rate (percent)
Kumho Tire (Vietnam) Co., Ltd	7.89
Sailun (Vietnam) Co., Ltd	6.23
All Others	6.46

Provisional Measures

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigation, Commerce published the *Preliminary Determination* on November 10, 2020. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determination* ended on March 9, 2021.

In accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of passenger vehicle and light truck tires from Vietnam entered, or withdrawn from warehouse, for consumption, after March 9, 2021, the final day on which provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Notification to Interested Parties

This notice constitutes the countervailing duty order with respect to passenger vehicle and light truck tires from Vietnam pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: July 13, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The scope of this order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this order may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol ''DOT'' on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a ''P'' or ''LT'' prefix, and all tires with an ''LT'' suffix in their sidewall markings are covered by this order regardless of their intended use.

In addition, all tires that lack a ''P'' or ''LT'' prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) Racing car tires; such tires do not bear the symbol ''DOT'' on the sidewall and may be marked with ''ZR'' in size designation;

(2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger

[2] *See* ITC Notification Letter, Investigation Nos. 701–TA–647 and 731–TA–1517–1520 (Final), dated July 12, 2021.

[3] *Id.*

[4] *See Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 85 FR 71607 (November 10, 2020) (*Preliminary Determination*).

vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT–1R (''T'' Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT–1B (''T'' Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation ''T'' is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a ''M'' rating;

(5) tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:

(a) The tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 245/70R18, or 265/70R18 size designation;

(b) ''Temporary Use Only'' or ''Spare'' is molded into the tire's sidewall;

(c) the tread depth of the tire is no greater than 6.2 mm; and

(d) Uniform Tire Quality Grade Standards (''UTQG'') ratings are not molded into the tire's sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation ''ST'' is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is ''For Trailer Service Only'' or ''For Trailer Use Only'',

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an ''M'' rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an ''N'' rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is ''Not For Highway Service'' or ''Not for Highway Use'',

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a ''G'' rating, and

(d) the tire features a recognizable off-road tread design;

(8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:

(a) The tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an ''N'' rating, and

(b) both of the following physical characteristics are satisfied:

(i) The size designation and load index combination molded on the tire's sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and

(ii) The size designation and load index combination molded on the tire's sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American standard size	Metric size	Load index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
30X10R14	254/80R/14	79
30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
32x10R15	254/85R/15	83
32x10R15	254/85R/15	94
33x10R15	254/90R/15	86
33x10R15	254/90R/15	95
35x9.50R15	241/105R/15	82
35x10R15	254/100R/15	97

The products covered by this order are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2021–15271 Filed 7–16–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–874]

Certain Steel Nails From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that sales of certain steel nails (steel nails) from the Republic of Korea (Korea) have been made at less than normal value (NV) by Daejin Steel Company (Daejin) during the period of review (POR) July 1, 2019, through June 30, 2020. Interested parties are invited to comment on these preliminary results.

DATES: Applicable July 19, 2021.

FOR FURTHER INFORMATION CONTACT: Eva Kim, 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) 482–8283.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2020, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the antidumping duty (AD) order on steel nails from Korea with respect to 93 companies.[1] On March 2, 2021, Commerce extended the due date for issuing the preliminary results of this review by 33 days, until May 5, 2021.[2]

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 54983 (September 3, 2020).

[2] *See* Memorandum, ''Certain Steel Nails from the Republic of Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated March 2, 2021.

On April 26, 2021, Commerce extended the due date for issuing the preliminary results of this review by an additional 30 days, until June 4, 2021.[3] On May 26, 2021, Commerce extended the due date for issuing the preliminary results of this review by an additional 40 days, until July 14, 2021.[4]

Partial Rescission of Administrative Review

In response to Commerce's notice of opportunity to request an administrative review on certain steel nails from Korea,[5] on July 27 and July 31, 2020, Je-il Wire Production Co., Ltd. (Je-il) and Korea Wire Co., Ltd. (Kowire) timely requested an administrative review of the *Order*[6] with respect to their exports of subject merchandise to the United States during the POR, respectively.[7] On July 31, 2020, Mid Continent Steel & Wire, Inc. (the petitioner) requested an administrative review of 93 producers and/or exporters, including Daeijn, Je-il, Koram Inc. (Koram) and Kowire.[8]

On September 18, 2020, Je-il withdrew its review request.[9] On September 21, 2020, the petitioner withdrew its request for 91 of the 93 companies (which included Je-il and Kowire), maintaining its review request for Daejin and Koram.[10] On September 21, 2020, the petitioner submitted comments requesting Commerce use the U.S. Customs and Border Protection (CBP) data to select Daejin, Koram, and Kowire as mandatory respondents.[11] On October 30, 2020, based on CBP data, we selected Daejin and Kowire as the mandatory respondents in this administrative review.[12] On November 4, 2020, Kowire withdrew its request of review of itself.[13] Therefore, Commerce is rescinding this review, in part, with respect to 91 companies. For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[14]

Scope of the Order [15]

The merchandise covered by this *Order* is steel nails having a nominal shaft length not exceeding 12 inches.[16] Merchandise covered by the *Order* is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to this *Order* also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive. For a full description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). We calculated export price in accordance with section 772 of the Act. We calculated NV in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the POR:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Daejin Steel Company	3.22
Koram Inc	3.22

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. If the weighted-average dumping margin for the company listed above is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate importer-specific *ad valorem* AD assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[17] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.,* 0.5 percent). Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of

[3] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated April 26, 2021.

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated May 26, 2021.

[5] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 39531 (July 1, 2020).

[6] *See Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders,* 80 FR 39994 (July 13, 2015) (*Order*).

[7] *See* Je-il's Letter, ''Certain Steel Nails from the Republic of Korea: Request for Administrative Review for the Period July 1, 2019–June 30, 2020,'' dated July 27, 2020; *see also* Kowire's Letter, ''Steel Nails from the Republic of Korea—Request for Administrative Review,'' dated July 31, 2020.

[8] *See* Petitioners' Letter, ''Certain Steel Nails from Republic of Korea—Request for Administrative Review,'' dated July 31, 2020.

[9] *See* the Je-il's Letter, ''Certain Steel Nails from the Republic of Korea: Withdrawal of Request for Administrative Review for the Period July 1, 2019–June 30, 2020,'' dated September 18, 2020.

[10] *See* Petitioner's Letter, ''Certain Steel Nails from the Republic of Korea—Withdrawal of Request for Administrative Review,'' dated September 21, 2020.

[11] *See* Petitioner's Letter, ''Certain Steel Nails from Republic of Korea—Comments on Respondent Selection,'' dated September 21, 2020.

[12] *See* Memorandum, ''2019–2020 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the Republic of Korea: Respondent Selection,'' dated October 30, 2020.

[13] *See* Kowire's Letter, ''Steel Nails from the Republic of Korea—Withdrawal of Request for Administrative Review,'' dated November 4, 2020.

[14] *See* Memorandum, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Steel Nails from the Republic of Korea; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[15] *See Order.*

[16] The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

[17] In the preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[18]

For the company (*i.e.,* Koram) that was not selected for individual examination, we will instruct CBP to assess antidumping duties at an *ad valorem* rate equal to the company's weighted-average dumping margin determined in the final results of this review.

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by each respondent which did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate entries not reviewed at the all-others rate established in the original less-than-fair value (LTFV) investigation (*i.e.,* 11.80 percent) if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of steel nails from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the exporters listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.80 percent, the all-others rate established in the LTFV investigation.[19] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose to the parties to the proceeding the calculations performed in connection with these preliminary results to interested parties within five days of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs to Commerce in response to these preliminary results no later than 30 days after the publication of this notice.[20] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[21] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[22] Case and rebuttal briefs should be filed using ACCESS and must be served on interested parties.[23] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[24]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Acting Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[25] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

An electronically-filed request for a hearing must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[26] Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of these preliminary results in the **Federal Register**, unless otherwise extended.[27]

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: July 12, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Rescission of Review, In Part
V. Discussion of the Methodology
VI. Recommendation

Appendix II

List of Companies for Which Commerce Is Rescinding This Review

Astrotech Steels Private Ltd.
Beijing Catic Industry Ltd.
Beijing Jinheung Co. Ltd. Inmax Industries Sdn. Bhd.
Bonuts Hardware Logistics
Bowon Fastener Co., Ltd.
Cheng Ch International Co., Ltd
China International Freight
China Staple Enterprise Co., Ltd
Crane Worldwide Logistics
De Well Group Korea Co., Ltd.
Dezhou Hualude Hardware Products Co., Ltd.

[18] *See* section 751(a)(2)(C) of the Act.

[19] *See Order.*

[20] *See* 19 CFR 351.309(c)(1)(ii).

[21] *See* 19 CFR 351.309(d)(1) and (2); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020); *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

[22] *See* 19 CFR 351.309(c)(2) and (d)(2) and 19 CFR 351.303 (for general filing requirements).

[23] *See generally* 19 CFR 351.303.

[24] *See Temporary Rule.*

[25] *See* 19 CFR 351.310(d).

[26] *See* 19 CFR 351.310(c); *see also* 19 CFR 351.303(b)(1).

[27] *See* section 751(a)(3)(A) of the Act.

Dongwon Industries Co., Ltd.
Duo-Fast Co., Ltd
Duo-Fast Korea Co., Ltd.
Euro Line Global Co. Ltd.
Fastgrow International Co.
Geekay Wires Limited
Hanbit Logistics Co., Ltd.
Hanmi Staple Co., Ltd
Hebei Cangzhou New Century Foreign Trade Co., Ltd.
Hebei Jinsidun Trade Co. Ltd.
Hebei Minghao Import Export Co Li
Hebei Minmetals Co., Ltd.
Hengtuo Metal Products Co Ltd
Hongyi Hardware Products Co., Ltd.
Inmax Sdn. Bhd.
Jas Forwarding (Korea) Co. Ltd.
JCD Group Co., Limited
Jeil Tacker Co. Ltd.
Je-il Wire Production Co., Ltd.
Jinhai Hardware Co., Ltd.
Jinheung Steel Corporation
Jinsco International Corp.
Joo Sung Sea & Air Co., Ltd
Joosung B&P
Jung Fastener
Kabool Fasteners Co., Ltd.
Kintetsu World Express (Korea) Inc.
Korea Wire Co., Ltd.
Kousa Int. Logistics Co. Ltd.
KPF Co., Ltd.
Kuehne + Nagel Ltd.
Liang Chyuan Industrial Co., Ltd.
Maxpeed International Transport
Mingguang Ruifeng Hardware Products Co., Ltd.
MPROVE Co., Limited
Nailtech Co., Ltd.
OEC Freight (Korea) Co., Ltd.
OEC Worldwide Korea Co., Ltd.
Orient Express Container Co., Ltd
Paslode Fasteners (Shanghai) Co., Ltd.
Peace Industries, Ltd.
Promising Way (HongKong) Limited
Pro-Team Coil Nail Enterprise Inc.
Qingdao Cheshire Trading Co. Ltd.
Qingdao D&L Group Ltd.
Qingdao Hongyuan Nail Industry Co. Ltd.
Qingdao JCD Machinery Co., Ltd.
Qingdao Jisco Co., Ltd.
Qingdao Mst Industry and Commerce Co., Ltd.
Ramses Logistics Co., Ltd.
Schenker Korea Ltd.
Sejung Shipping Co., Ltd.
Shandong Oriental Cherry Hardware Group Co. Ltd.
Shandong Oriental Cherry Hardware Import & Export Co., Ltd.
Shandong Qingyun Hongyi Hardware Products Co., Ltd.
Shanghai Zoonlion Industrial Co., Ltd.
Shanxi Pioneer Hardware Industry Co., Ltd.
Shanxi Tianli Industries Co., Ltd.
Shipco Transport (Korea) Co., Ltd.
ST Fasteners
Suntec Industries Co., Ltd.
The Inno Steel
Tianjin Coways Metal Products Co.
Tianjin Hongli Qiangsheng Imp. & Exp
Tianjin Jinchi Metal Products Co., Ltd.
Tianjin Jinghai County Hongli
Tianjin Lituo Imp & Exp Co., Ltd
Tianjin Liweitian Metal Technology
Tianjin Xinhe International Trade Co. Ltd
Tianjin Zhonglian Metals Ware Co. Ltd.
Tianjin Zhonglian Times Technology
Unicorn (Tianjin) Fasteners Co., Ltd.
Woosung Shipping Co. Ltd.
Wulian Zhanpeng Metals Co., Ltd.
Xi'an Metals and Minerals Imp. Exp. Co., Ltd.
Xinjiayuan International Trade Co.
Young-Ko Trans Co., Ltd.
Youngwoo Fasteners Co., Ltd.
Zhaoqing Harvest Nails Co., Ltd.
Zon Mon Co Ltd.

[FR Doc. 2021–15265 Filed 7–16–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB248]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of issuance of Letters of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, notification is hereby given that two Letters of Authorization (LOA) have been issued to bp Exploration & Production Inc. (bp) for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico.

DATES: The LOAs are effective from July 13, 2021, through April 19, 2026.

ADDRESSES: The LOAs, LOA requests, and supporting documentation are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively ''industry operators''), in Federal waters of the U.S. Gulf of Mexico (GOM) over the course of 5 years (86 FR 5322; January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and

prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

Summary of Request and Analysis

Bp plans to conduct vertical seismic profile (VSP) geophysical surveys within existing bp prospects and/or fields, including the Mad Dog, Na Kika, Thunder Horse, and Atlantis prospects located in the Green Canyon (Mad Dog and Atlantis), Mississippi Canyon (Na Kika and Thunder Horse), and Atwater Valley (Atlantis) areas of the central GOM (see Figure 1 in bp's applications). Bp submitted one LOA request related to Distributed Acoustic Sensing (DAS) VSP surveys at these areas and a separate LOA request related to zero offset VSP surveys at the same areas. The survey activity could occur at any time during the effective period of the LOAs, and surveys could occur at any of the prospect areas.

Bp anticipates a total of 10 DAS VSP surveys over the period of LOA effectiveness, with each survey expected to require 10 days (total of 100 days over the period of effectiveness). Bp anticipates that no more than two surveys would occur in any one year. However, due to the potential for unforeseen circumstances that would require a longer duration to accomplish the survey objectives, bp may conduct up to 25 DAS VSP survey days in any one year.

Bp anticipates a total of 10 zero offset VSP surveys over the period of LOA effectiveness, with each survey expected to require 2 days (total of 20 days over the period of effectiveness). Bp anticipates that no more than two surveys would occur in any one year. However, due to the potential for unforeseen circumstances that would require a longer duration to accomplish the survey objectives, bp may conduct up to 7 zero offset VSP survey days in any one year.

For DAS VSP surveys, bp anticipates using an airgun array consisting of 32 elements, with a total volume of 5,110 cubic inches (in^3). For zero offset VSP surveys, bp anticipates using an airgun array consisting of 6–12 elements, with a total volume of 2,400 in^3. Please see bp's applications for additional detail.

Consistent with the preamble to the final rule, the survey effort proposed by bp in its LOA requests was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5322, 5398; January 19, 2021). In order to generate the appropriate take number for authorization, the following information was considered: (1) Survey type; (2) location (by modeling zone [1]); (3) number of days; and (4) season.[2] The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled survey type in each zone and season.

No VSP surveys were included in the modeled survey types, and use of existing proxies (*i.e.,* 2D, 3D NAZ, 3D WAZ, Coil) is generally conservative for use in evaluation of VSP survey effort. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (83 FR 29212, 29220; June 22, 2018). 2D was selected as the best available proxy survey type. The DAS VSP would use one or two source vessels. Each source array on the vessel will be separated by at least 40 m with shots being conducted in a ''flip flop mode'' such that only 1 array shoots at one time. Because the sources are not firing simultaneously, and because the areal coverage of the DAS VSP survey is significantly smaller than is assumed for a 3D NAZ survey, 2D was selected as the most appropriate proxy. Zero offset VSP surveys are significantly different from modeled survey geometries, in that they are conducted from a stationary or near-stationary deployment very close to an active drilling platform. During zero offset VSP surveys, the seismic source array is typically deployed from a drilling rig or from one to two source vessels operating at or near the borehole, with the seismic receivers (*i.e.,* geophones) deployed in the borehole on wireline at specified depth intervals. Use of the 2D proxy for zero offset VSP surveys is expected to be significantly conservative. In addition, all available acoustic exposure modeling results assume use of a 72 element, 8,000 in^3 array. In this case, take numbers authorized through the LOAs are considered conservative (*i.e.,* they likely overestimate take) due to differences in both the airgun arrays and the survey geometries planned by bp, as compared to those modeled for the rule.

As described above, the maximum annual survey effort is 25 days for DAS VSP and 7 days for zero offset VSP. For all survey effort, it is assumed that 75 percent would occur in Zone 5 and 25 percent in Zone 7. Although the location of individual surveys is not known in advance, the described distribution was selected based on the location of the prospect areas (the majority of total prospect area coverage is in Zone 5, with some overlap into Zone 7). The season is not known in advance. Therefore, the take estimates for each species are based on the season that has the greater value for the species (*i.e.,* winter or summer).

For some species, take estimates based solely on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information available during the rulemaking process regarding marine mammal occurrence in the GOM. Thus, although the modeling conducted for the rule is a natural starting point for estimating take, our rule acknowledged that other information could be considered (see, *e.g.,* 86 FR 5322, 5442 (January 19, 2021), discussing the need to provide flexibility and make efficient use of previous public and agency review of other information and identifying that additional public review is not necessary unless the model or inputs used differ substantively from those that were previously reviewed by NMFS and the public). For this survey, NMFS has other relevant information reviewed during the rulemaking that indicates use of the acoustic exposure modeling to generate a take estimate for certain marine mammal species produces results inconsistent with what is known regarding their occurrence in the GOM. Accordingly, we have adjusted the calculated take estimates for those species as described below.

Rice's whales (formerly known as GOM Bryde's whales) [3] are generally found within a small area in the northeastern GOM in waters between 100–400 meters (m) depth along the continental shelf break (Rosel *et al.,* 2016). Whaling records suggest that Rice's whales historically had a broader distribution within similar habitat parameters throughout the GOM (Reeves *et al.,* 2011; Rosel and Wilcox, 2014), and a NOAA survey reported

[1] For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

[2] For purposes of acoustic exposure modeling, seasons include Winter (December–March) and Summer (April–November).

[3] The final rule refers to the GOM Bryde's whale (*Balaenoptera edeni*). These whales were subsequently described as a new species, Rice's whale (*Balaenoptera ricei*) (Rosel *et al.,* 2021).

observation of a Rice's whale in the western GOM in 2017 (NMFS, 2018). Habitat-based density modeling identified similar habitat (*i.e.,* approximately 100–400 m water depths along the continental shelf break) as being potential Rice's whale habitat (Roberts *et al.,* 2016), although a ''core habitat area'' defined in the northeastern GOM (outside the scope of the rule) contained approximately 92 percent of the predicted abundance of Rice's whales. See discussion provided at, *e.g.,* 83 FR 29212, 29228, 29280 (June 22, 2018); 86 FR 5322, 5418 (January 19, 2021).

Although it is possible that Rice's whales may occur outside of their core habitat, NMFS expects that any such occurrence would be limited to the narrow band of suitable habitat described above (*i.e.,* 100–400 m). Bp's planned activity will occur in water depths of approximately 1,200–2,300 m in the central GOM. NMFS does not expect there to be the reasonable potential for take of Rice's whale in association with this survey and, accordingly, does not authorize take of Rice's whale through this LOA.

Killer whales are the most rarely encountered species in the GOM, typically in deep waters of the central GOM (Roberts *et al.,* 2015; Maze-Foley and Mullin, 2006). The approach used in the acoustic exposure modeling, in which seven modeling zones were defined over the U.S. GOM, necessarily averages fine-scale information about marine mammal distribution over the large area of each modeling zone. NMFS has determined that the approach results in unrealistic projections regarding the likelihood of encountering killer whales.

As discussed in the final rule, the density models produced by Roberts *et al.* (2016) provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. GOM. The predictions represent the output of models derived from multi-year observations and associated environmental parameters that incorporate corrections for detection bias. However, in the case of killer whales, the model is informed by few data, as indicated by the coefficient of variation associated with the abundance predicted by the model (0.41, the second-highest of any GOM species model; Roberts *et al.,* 2016). The model's authors noted the expected non-uniform distribution of this rarely-encountered species (as discussed above) and expressed that, due to the limited data available to inform the model, it ''should be viewed cautiously'' (Roberts *et al.,* 2015).

NOAA surveys in the GOM from 1992–2009 reported only 16 sightings of killer whales, with an additional three encounters during more recent survey effort from 2017–18 (Waring *et al.,* 2013; *www.boem.gov/gommapps*). Two other species were also observed on fewer than 20 occasions during the 1992–2009 NOAA surveys (Fraser's dolphin and false killer whale [4]). However, observational data collected by protected species observers (PSOs) on industry geophysical survey vessels from 2002–2015 distinguish the killer whale in terms of rarity. During this period, killer whales were encountered on only 10 occasions, whereas the next most rarely encountered species (Fraser's dolphin) was recorded on 69 occasions (Barkaszi and Kelly, 2019). The false killer whale and pygmy killer whale were the next most rarely encountered species, with 110 records each. The killer whale was the species with the lowest detection frequency during each period over which PSO data were synthesized (2002–2008 and 2009–2015). This information qualitatively informed our rulemaking process, as discussed at 86 FR 5322, 5334 (January 19, 2021), and similarly informs our analysis here.

The rarity of encounter during seismic surveys is not likely to be the product of high bias on the probability of detection. Unlike certain cryptic species with high detection bias, such as *Kogia* spp. or beaked whales, or deep-diving species with high availability bias, such as beaked whales or sperm whales, killer whales are typically available for detection when present and are easily observed. Roberts *et al.* (2015) stated that availability is not a major factor affecting detectability of killer whales from shipboard surveys, as they are not a particularly long-diving species. Baird *et al.* (2005) reported that mean dive durations for 41 fish-eating killer whales for dives greater than or equal to 1 minute in duration was 2.3–2.4 minutes, and Hooker *et al.* (2012) reported that killer whales spent 78 percent of their time at depths between 0–10 m. Similarly, Kvadsheim *et al.* (2012) reported data from a study of four killer whales, noting that the whales performed 20 times as many dives 1–30 m in depth than to deeper waters, with an average depth during those most common dives of approximately 3 m.

In summary, killer whales are the most rarely encountered species in the GOM and typically occur only in particularly deep water. While this information is reflected through the density model informing the acoustic exposure modeling results, there is relatively high uncertainty associated with the model for this species, and the acoustic exposure modeling applies mean distribution data over areas where the species is in fact less likely to occur. NMFS' determination in reflection of the data discussed above, which informed the final rule, is that use of the generic acoustic exposure modeling results for killer whales will generally result in estimated take numbers that are inconsistent with the assumptions made in the rule regarding expected killer whale take (86 FR 5322, 5403; January 19, 2021).

In past authorizations, NMFS has often addressed situations involving the low likelihood of encountering a rare species such as killer whales in the GOM through authorization of take of a single group of average size (*i.e.,* representing a single potential encounter). See 83 FR 63268, December 7, 2018. See also 86 FR 29090, May 28, 2021; 85 FR 55645, September 9, 2020. For the reasons expressed above, NMFS determined that a single encounter of killer whales is more likely than the model-generated estimates and has authorized take associated with a single killer whale group encounter (*i.e.,* up to seven animals).

Based on the results of our analysis, NMFS has determined that the level of taking expected for these surveys and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations. See Tables 1 and 2 in this notice and Table 9 of the rule (86 FR 5322; January 19, 2021).

Small Numbers Determinations

Under the GOM rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed ''small numbers.'' In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small. For more information please see NMFS' discussion of the MMPA's small numbers requirement provided in the final rule (86 FR 5322, 5438; January 19, 2021).

The take numbers for authorization are determined as described above. Subsequently, the total incidents of harassment for each species may be multiplied by scalar ratios to produce a derived product that better reflects the

[4] However, note that these species have been observed over a greater range of water depths in the GOM than have killer whales.

number of individuals likely to be taken within a survey (as compared to the total number of instances of take), accounting for the likelihood that some individual marine mammals may be taken on more than one day (see 86 FR 5322, 5404; January 19, 2021). The output of this scaling, where appropriate, is incorporated into an adjusted total take estimate that is the basis for NMFS' small numbers determinations, as depicted in Table 1 for Bp's DAS VSP surveys (maximum 25 days annually) and in Table 2 for zero offset VSP surveys (maximum 7 days annually).

This product is used by NMFS in making the necessary small numbers determinations, through comparison with the best available abundance estimates (see discussion at 86 FR 5322, 5391; January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock abundance reports (SAR; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and model-predicted abundance information (*https://seamap.env.duke.edu/models/Duke/GOM/*). For the latter, for taxa where a density surface model could be produced, we use the maximum mean seasonal (*i.e.,* 3-month) abundance prediction for purposes of comparison as a precautionary smoothing of month-to-month fluctuations and in consideration of a corresponding lack of data in the literature regarding seasonal distribution of marine mammals in the GOM. Information supporting the small numbers determinations is provided in Tables 1 and 2.

TABLE 1—TAKE ANALYSIS, DAS VSP LOA

Species	Annual authorized take	Scaled annual take [1]	Abundance [2]	Percent abundance
Sperm whale	709	299.9	2,207	13.6
Kogia spp	[3] 274	72.0	4,373	2.1
Beaked whales	4,001	404.1	3,768	10.7
Rough-toothed dolphin	478	137.2	4,853	2.8
Bottlenose dolphin	2,432	698.0	176,108	0.4
Clymene dolphin	1,603	460.1	11,895	3.9
Atlantic spotted dolphin	920	264.0	74,785	0.4
Pantropical spotted dolphin	8,251	2,368.0	102,361	2.3
Spinner dolphin	1,770	508.0	25,114	2.0
Striped dolphin	649	186.3	5,229	3.6
Fraser's dolphin	188	54.0	1,665	3.2
Risso's dolphin	457	134.8	3,764	3.6
Melon-headed whale	1,037	305.9	7,003	4.4
Pygmy killer whale	230	67.9	2,126	3.2
False killer whale	344	101.5	3,204	3.2
Killer whale	7	n/a	267	2.6
Short-finned pilot whale	273	80.5	1,981	4.1

[1] Scalar ratios were applied to ''Annual Authorized Take'' values as described at 86 FR 5322, 5404 (January 19, 2021) to derive scaled take numbers shown here.

[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.,* 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For the killer whale, the larger estimated SAR abundance estimate is used.

[3] Includes 6 annual takes by Level A harassment and 268 annual takes by Level B harassment. Scalar ratio is applied to takes by Level B harassment only; small numbers determination made on basis of scaled annual Level B harassment take plus annual Level A harassment take.

TABLE 2—TAKE ANALYSIS, ZERO OFFSET VSP LOA

Species	Annual authorized take [1]	Abundance [2]	Percent abundance
Sperm whale	198	2,207	9.0
Kogia spp	[3] 79	4,373	1.8
Beaked whales	1,120	3,768	29.7
Rough-toothed dolphin	134	4,853	2.8
Bottlenose dolphin	681	176,108	0.4
Clymene dolphin	449	11,895	3.8
Atlantic spotted dolphin	258	74,785	0.3
Pantropical spotted dolphin	2,310	102,361	2.3
Spinner dolphin	496	25,114	2.0
Striped dolphin	182	5,229	3.5
Fraser's dolphin	53	1,665	3.2
Risso's dolphin	128	3,764	3.4
Melon-headed whale	290	7,003	4.1
Pygmy killer whale	64	2,126	3.0
False killer whale	96	3,204	3.0
Killer whale	7	267	2.6
Short-finned pilot whale	77	1,981	3.9

[1] Scalar ratios were not applied in this case due to brief annual survey duration.

[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.,* 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For the killer whale, the larger estimated SAR abundance estimate is used.

[3] Includes 2 annual takes by Level A harassment and 77 annual takes by Level B harassment.

Based on the analysis contained herein of bp's proposed survey activity described in its LOA applications and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.,* less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for these LOA requests is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOAs is of no more than small numbers. Accordingly, we have issued two LOAs to bp authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: July 14, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–15241 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB243]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Salmon Technical Team (STT) will host an online meeting that is open to the public.

DATES: The online meeting will be held Tuesday, August 3, 2021, from 9 a.m. until 5 p.m., Pacific Daylight Time, or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Ehlke, Staff Officer, Pacific Council; telephone: (503) 820–2410.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to discuss the NMFS rule to implement provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) that require all fishery management plans (FMPs) to establish a standardized bycatch reporting methodology (SBRM) to assess the amount and type of bycatch occurring in a fishery. The STT will focus on the Pacific salmon FMP and develop, as needed, potential SBRM language to meet the NMFS requirement. The STT may also discuss and prepare for future STT meetings and future meetings with the Pacific Council and its advisory bodies, including, but not limited to, such topics as the annual salmon methodology review and technical material from the Pacific Council's Ad-Hoc Southern Oregon/Northern California Coast coho workgroup.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: July 13, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–15225 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB252]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, notification is hereby given that a Letter of Authorization (LOA) has been issued to Chevron U.S.A. Inc. (Chevron) for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico.

DATES: The LOA is effective from August 1, 2021, through April 30, 2022.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not

intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively ''industry operators''), in Federal waters of the U.S. Gulf of Mexico (GOM) over the course of 5 years (86 FR 5322; January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

Summary of Request and Analysis

Chevron plans to conduct a zero offset vertical seismic profile (VSP) survey of Lease Block 822 in the Green Canyon area. See Section J of Chevron's application for a map. Chevron plans to use either an airgun array consisting of 12 elements, with a total volume of 2,400 cubic inches (in^3), or a 6-element array with total volume of 1,500 in^3. Please see Chevron's application for additional detail.

Consistent with the preamble to the final rule, the survey effort proposed by Chevron in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5322, 5398; January 19, 2021). In order to generate the appropriate take number for authorization, the following information was considered: (1) Survey type; (2) location (by modeling zone [1]); (3) number of days; and (4) season.[2] The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled survey type in each zone and season.

No VSP surveys were included in the modeled survey types, and use of existing proxies (*i.e.,* 2D, 3D NAZ, 3D WAZ, Coil) is generally conservative for use in evaluation of VSP survey effort. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (83 FR 29212, 29220; June 22, 2018). Zero offset VSP surveys are significantly different from modeled survey geometries, in that they are conducted from a stationary or near-stationary deployment very close to an active drilling platform. For this survey, the seismic source array will be deployed from a drilling rig at or near the borehole, with the seismic receivers (*i.e.,* geophones) deployed in the borehole on wireline at specified depth intervals. Use of the 2D proxy for zero offset VSP surveys is expected to be significantly conservative. In addition, all available acoustic exposure modeling results assume use of a 72 element, 8,000 in^3 array. In this case, take numbers authorized through the LOA are considered very conservative (*i.e.,* they likely overestimate take) due to differences in both the airgun array and the survey geometry planned by Chevron, as compared to those modeled for the rule.

The survey is planned to occur for 2 days in Zone 5. The season is not known in advance. Therefore, the take estimates for each species are based on the season that has the greater value for the species (*i.e.,* winter or summer).

For some species, take estimates based solely on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information available during the rulemaking process regarding marine mammal occurrence in the GOM. Thus, although the modeling conducted for the rule is a natural starting point for estimating take, our rule acknowledged that other information could be considered (see, *e.g.,* 86 FR 5322, 5442 (January 19, 2021), discussing the need to provide flexibility and make efficient use of previous public and agency review of other information and identifying that additional public review is not necessary unless the model or inputs used differ substantively from those that were previously reviewed by NMFS and the public). For this survey, NMFS has other relevant information reviewed during the rulemaking that indicates use of the acoustic exposure modeling to generate a take estimate for certain marine mammal species produces results inconsistent with what is known regarding their occurrence in the GOM. Accordingly, we have adjusted the calculated take estimates for those species as described below.

Killer whales are the most rarely encountered species in the GOM, typically in deep waters of the central GOM (Roberts *et al.,* 2015; Maze-Foley and Mullin, 2006). The approach used in the acoustic exposure modeling, in which seven modeling zones were defined over the U.S. GOM, necessarily averages fine-scale information about marine mammal distribution over the large area of each modeling zone. NMFS has determined that the approach results in unrealistic projections regarding the likelihood of encountering killer whales.

[1] For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

[2] For purposes of acoustic exposure modeling, seasons include Winter (December–March) and Summer (April–November).

As discussed in the final rule, the density models produced by Roberts *et al.* (2016) provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. GOM. The predictions represent the output of models derived from multi-year observations and associated environmental parameters that incorporate corrections for detection bias. However, in the case of killer whales, the model is informed by few data, as indicated by the coefficient of variation associated with the abundance predicted by the model (0.41, the second-highest of any GOM species model; Roberts *et al.,* 2016). The model's authors noted the expected non-uniform distribution of this rarely-encountered species (as discussed above) and expressed that, due to the limited data available to inform the model, it ''should be viewed cautiously'' (Roberts *et al.,* 2015).

NOAA surveys in the GOM from 1992–2009 reported only 16 sightings of killer whales, with an additional three encounters during more recent survey effort from 2017–18 (Waring *et al.,* 2013; *www.boem.gov/gommapps*). Two other species were also observed on fewer than 20 occasions during the 1992–2009 NOAA surveys (Fraser's dolphin and false killer whale [3]). However, observational data collected by protected species observers (PSOs) on industry geophysical survey vessels from 2002–2015 distinguish the killer whale in terms of rarity. During this period, killer whales were encountered on only 10 occasions, whereas the next most rarely encountered species (Fraser's dolphin) was recorded on 69 occasions (Barkaszi and Kelly, 2019). The false killer whale and pygmy killer whale were the next most rarely encountered species, with 110 records each. The killer whale was the species with the lowest detection frequency during each period over which PSO data were synthesized (2002–2008 and 2009–2015). This information qualitatively informed our rulemaking process, as discussed at 86 FR 5322, 5334 (January 19, 2021), and similarly informs our analysis here.

The rarity of encounter during seismic surveys is not likely to be the product of high bias on the probability of detection. Unlike certain cryptic species with high detection bias, such as *Kogia* spp. or beaked whales, or deep-diving species with high availability bias, such as beaked whales or sperm whales, killer whales are typically available for detection when present and are easily observed. Roberts *et al.* (2015) stated that availability is not a major factor affecting detectability of killer whales from shipboard surveys, as they are not a particularly long-diving species. Baird *et al.* (2005) reported that mean dive durations for 41 fish-eating killer whales for dives greater than or equal to 1 minute in duration was 2.3–2.4 minutes, and Hooker *et al.* (2012) reported that killer whales spent 78 percent of their time at depths between 0–10 m. Similarly, Kvadsheim *et al.* (2012) reported data from a study of four killer whales, noting that the whales performed 20 times as many dives 1–30 m in depth than to deeper waters, with an average depth during those most common dives of approximately 3 m.

In summary, killer whales are the most rarely encountered species in the GOM and typically occur only in particularly deep water. While this information is reflected through the density model informing the acoustic exposure modeling results, there is relatively high uncertainty associated with the model for this species, and the acoustic exposure modeling applies mean distribution data over areas where the species is in fact less likely to occur. NMFS' determination in reflection of the data discussed above, which informed the final rule, is that use of the generic acoustic exposure modeling results for killer whales will generally result in estimated take numbers that are inconsistent with the assumptions made in the rule regarding expected killer whale take (86 FR 5322, 5403; January 19, 2021). In this case, use of the acoustic exposure modeling produces an estimate of one killer whale exposure. Given the foregoing, it is unlikely that even one killer whale would be encountered during this 2-day survey, and accordingly no take of killer whales is authorized through this LOA.

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations. See Table 1 in this notice and Table 9 of the rule (86 FR 5322; January 19, 2021).

Small Numbers Determination

Under the GOM rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed ''small numbers.'' In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small. For more information please see NMFS' discussion of the MMPA's small numbers requirement provided in the final rule (86 FR 5322, 5438; January 19, 2021).

The take numbers for authorization, which are determined as described above, are used by NMFS in making the necessary small numbers determinations, through comparison with the best available abundance estimates (see discussion at 86 FR 5322, 5391; January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock abundance reports (SAR; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and model-predicted abundance information (*https://seamap.env.duke.edu/models/Duke/GOM/*). For the latter, for taxa where a density surface model could be produced, we use the maximum mean seasonal (*i.e.,* 3-month) abundance prediction for purposes of comparison as a precautionary smoothing of month-to-month fluctuations and in consideration of a corresponding lack of data in the literature regarding seasonal distribution of marine mammals in the GOM. Information supporting the small numbers determinations is provided in Table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take [1]	Abundance [2]	Percent abundance
Rice's whale [3]	0	51	n/a
Sperm whale	71	2,207	3.2

[3] However, note that these species have been observed over a greater range of water depths in the GOM than have killer whales.

TABLE 1—TAKE ANALYSIS—Continued

Species	Authorized take [1]	Abundance [2]	Percent abundance
Kogia spp	[4] 27	4,373	0.6
Beaked whales	378	3,768	10.0
Rough-toothed dolphin	45	4,853	0.9
Bottlenose dolphin	259	176,108	0.1
Clymene dolphin	152	11,895	1.3
Atlantic spotted dolphin	98	74,785	0.1
Pantropical spotted dolphin	688	102,361	0.7
Spinner dolphin	184	25,114	0.7
Striped dolphin	59	5,229	1.1
Fraser's dolphin	[5] 65	1,665	3.9
Risso's dolphin	46	3,764	1.2
Melon-headed whale	[6] 100	7,003	1.4
Pygmy killer whale	20	2,126	0.9
False killer whale	31	3,204	1.0
Killer whale	0	267	n/a
Short-finned pilot whale	28	1,981	1.4

[1] Scalar ratios were not applied in this case due to brief survey duration.
[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.,* 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For the killer whale, the larger estimated SAR abundance estimate is used.
[3] The final rule refers to the GOM Bryde's whale (*Balaenoptera edeni*). These whales were subsequently described as a new species, Rice's whale (*Balaenoptera ricei*) (Rosel *et al.,* 2021).
[4] Includes 1 take by Level A harassment and 26 takes by Level B harassment.
[5] Modeled take of 17 increased to account for potential encounter with group of average size (Maze-Foley and Mullin, 2006).
[6] Modeled take of 97 increased to account for potential encounter with group of average size (Maze-Foley and Mullin, 2006).

Based on the analysis contained herein of Chevron's proposed survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.,* less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to Chevron authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: July 14, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–15239 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB149]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Service Pier Extension Project at Naval Base Kitsap Bangor, Washington

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

ACTION: Notice; request for comments on proposed renewal incidental harassment authorization.

SUMMARY: NMFS received a request from the United States Navy (Navy) for the renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to the Service Pier Extension (SPE) Project at Naval Base Kitsap Bangor in Silverdale, Washington. These activities are identical with activities that were covered by the current authorization, but will not be completed prior to its expiration. Pursuant to the Marine Mammal Protection Act, prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed renewal not previously provided during the initial 30-day comment period.

DATES: Comments and information must be received no later than August 3, 2021.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to *ITP.Potlock@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business

information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Kelsey Potlock, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application, renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act (MMPA) prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). Monitoring and reporting of such takings are also required. The meaning of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency's regulations at 50 CFR 216.103.

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed modification IHA (85 FR 74989; November 24, 2020), NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time one-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

(1) A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).

(2) The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).
- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

(3) Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.* Any comments received on the potential renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested renewal, and agency responses will be summarized in the final notice of our decision.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

History of Request

On June 28, 2018, NMFS published a notice of our issuance of an IHA to the United States Navy (Navy) authorizing take of five species of marine mammals by Level A and Level B harassment incidental to the pile installation and removal activities (by impact pile driving and vibratory pile driving) for the Service Pier Extension (SPE) Project at Naval Base Kitsap Bangor in Silverdale, Washington (83 FR 30406). Species authorized for take included killer whales (*Orcinus orca;* transient stock only), harbor porpoise (*Phocoena phocoena vomerina*), California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus monteriensis*), and harbor seals (*Phoca vitulina richardii*). The effective dates of

that IHA were July 16, 2019 through July 15, 2020.

On February 4, 2019, the Navy informed NMFS that the project was being delayed by one full year. None of the work identified in the initial IHA (83 FR 30406; June 28, 2018) had occurred and no marine mammals had been taken during the effective dates of the original IHA, and the Navy submitted a formal request for reissuance of the initial IHA with new effective dates of July 16, 2020 through July 15, 2021 and no other changes. NMFS re-issued this IHA on July 3, 2019 (84 FR 31844).

On October 14, 2020, NMFS received a request from the Navy for a modification to the re-issued IHA due to an elevated harbor seal take rate. The Navy felt that without an increase in authorized take of harbor seals, they would be forced to repeatedly shutdown whenever animals entered into the specified Level A harassment zones. This would likely prolong the duration of in-water construction activities and add increased costs to the project. Following a 30-day public comment period, NMFS issued a modified IHA, including revisions to mitigation and increased authorized takes by Level A harassment for harbor seals (85 FR 86538, December 30, 2020), and kept the same July 15, 2021 expiration date that was initially published in the reissuance (84 FR 31844; July 3, 2019).

On April 26, 2021, NMFS received an application for a renewal of the current IHA (85 FR 86538; December 30, 2020). As described in the application for renewal IHA, the activities for which incidental take is requested consist of activities that are covered by the modified IHA but will not be completed prior to its expiration, and the take estimates for all species are based on the 2018 initial IHA and subsequent 2020 modification (for harbor seals only). As required, the applicant also provided a preliminary monitoring report (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. This application was considered adequate and complete on June 15, 2021.

Worth noting and as stated above, NMFS has previously issued an IHA and subsequent reissuances and modifications to the Navy for the subset of activities contained in the Navy's 2021 renewal IHA request. Because the full scope of activities were originally addressed in the initial 2018 IHA (83 FR 30406; June 28, 2018) and the 2020 modified IHA (85 FR 86538), any discussion regarding the scope of analysis and evaluations in this document relating specifically to the issuance of the renewal are explained in more detail in the initial IHA (83 FR 30406; June 28, 2018), in the subsequently proposed modified (85 FR 74989; November 24, 2020), and in the final modified IHA (85 FR 86538; December 30, 2020).

Description of the Specified Activities and Anticipated Impacts

The Navy will be unable to complete all the planned work during the 160-day in-water work window (125 days for the steel pile installation and extraction using a combination of vibratory and impact methods, and 35 days for the concrete impact pile installation) described in the 2018 IHA at Naval Base Kitsap Bangor before the expiration date of July 15, 2021. Therefore, they have requested a renewal IHA to authorize take of marine mammals for the subset of the initially planned work that is not expected to be completed.

As described in the renewal application and conducted under the IHAs to date, the Navy planned to install 203 36-inch (90 centimeter (cm)) diameter steel piles and 50 24-inch (60 cm) diameter steel pipe support piles). Both of these would have been completed using vibratory and impact ''proofing'' methods (using an impact hammer to test the functionality of the pile installation). The Navy also planned to temporarily install and subsequently extract 27 36-inch (90 cm) diameter steel falsework piles by vibratory hammer with impact ''proofing''. Thirty-six creosote timber piles (19 18-inch (45 cm) diameter and 17 15-inch (38 cm) diameter piles) would have been removed using a vibratory hammer. Lastly, 103 18-inch (45 cm) square concrete fenders piles would have been installed via impact pile driving. The Monitoring Report submitted by the Navy described only a fraction of these activities of which take was authorized under the current IHA occurred, as determined by their project engineers. These include the removal of 22 18-inch creosote-treated timber piles, the installation of 11 24-inch steel piles for the small craft and mooring dolphins, and the installation of 176 36-inch steel piles for the pier and wave screen attachment.

The only work that remains is the installation of the 103 18-inch square concrete fender piles by impact pile driving. These activities were not able to occur during the current IHA. The Navy expects that this will require 35 days during a specified in-water work window (July 16 through January 15) during the year allowed by the renewal IHA. This work window is the same as discussed in the 2018 IHA where work is targeted to avoid conducting activities when ESA-listed juvenile salmonids are likely to be present in the area (February–July; USACE, 2015).

The mitigation and monitoring would be identical to that included in the 2018 IHA (83 FR 30406; June 28, 2018), with the exception of specified shutdown parameters due to the presence of harbor seals added in the modified IHA (85 FR 86538; December 30, 2020). All documents associated with the 2018 IHA (*i.e.,* the IHA application, the proposed IHA, the public comments, the final IHA, references, and the monitoring reports) can be found on NMFS's website: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor.* All documents associated with the subsequent reissuances and modifications (**Federal Register** notices, draft and final IHAs, and public comments) can be found at this location.

Anticipated impacts, which would include both Level A and Level B harassment of marine mammals, would also be identical to those analyzed and authorized in the 2018 IHA (though fewer, since this project is comprised of a subset of activities). Species with the expected potential to be present during all or a portion of the in-water work window include the killer whale, the harbor porpoise, the California sea lion, the Steller sea lion, and the harbor seal. Monitoring results from the 2020–2021 construction activities (Table 1) indicate that observed exposures above Level A and Level B harassment thresholds were below the amount authorized in association with the amount of work conducted (see the Marine Mammal Monitoring Report on NMFS's website). Thus, a subset of Level A and Level B harassment takes remaining from those authorized under the 2018 IHA (and subsequent reissuances and modifications) will be sufficient to cover the 2021–2022 concrete pile installation activities during the 2021 renewal IHA.

TABLE 1—TAKE AUTHORIZED BY SPECIES AND STOCK IN 2020–2021 IHA AND OBSERVED TAKE IN THE 2020–2021 CONSTRUCTION WINDOW

Species	Stock	Authorized Level A harassment takes	Authorized Level B harassment takes	Observed Level A harassment takes	Observed Level B harassment takes
Killer whale	West coast transient	0	48	0	[2] 0
Harbor porpoise	Washington inland waters	0	2,728	0	451
California sea lion	United States	0	7,816	0	251
Steller sea lion	Eastern United States	0	503	0	16
Harbor seal	Hood Canal	[1] 509	[1] 5,216	129	429

[1] Changed per public comments addressed on the notice of the final modified IHA (85 FR 86538; December 30, 2020).
[2] Observed by Protected Species Observers (PSOs; also referred to as Marine Mammal Observers (MMOs) in the 2018 IHA) outside of pile driving and removal activities; subsequently not taken during this project. Further information on Marine Mammal Monitoring Report can be found on NMFS's website.

Detailed Description of the Activity

A detailed description of the construction activities for which take is proposed here may be found in the notices of the proposed and final IHAs for the 2018 authorization. The work would be identical to a subset of the activities analyzed in the 2018 IHA and include impact pile driving for the installation of concrete piles.

All piles for which take was originally authorized in the 2018 IHA were expected to be installed/removed during the 2020–2021 in-water work window from July 16 through January 15. Vibratory pile driving activities (*i.e.,* pile removal) began on July 16, 2020. Impact pile driving began on September 11, 2020. However, due to construction schedule delays, designated work was only conducted on a portion of those days designated for pile installation and/or extraction during the 2018 IHA. Observers were on site for a total of 99 days, of which 95 of those days contained monitoring effort (644 hours; inclusive of periods of active pile driving and periods between pile driving events). Observers did not conduct monitoring on October 21, 2020 or on the 14th, 15th, and 16th of September 2020 because no pile driving occurred on those dates. The Marine Mammal Monitoring Report states that monitoring days were limited due to low visibility from local wildfires in the area. Further information can be found in the Monitoring Report on NMFS's website.

Table 2 shows the activities under the 2018 IHA (and subsequent reissuance and modification) that were completed from the 2020–2021 construction period and the subset of work that remains for the 2021–2022 construction period under this renewal IHA. The concrete pile driving activities would be timed to occur within the standard NMFS work window for Endangered Species Act (ESA)-listed fish species (July 16 through January 15).

TABLE 2—PILE INSTALLATIONS COMPLETED DURING THE 2020–2021 CONSTRUCTION PERIOD UNDER THE REISSUED IHA (84 FR 31844; JULY 3, 2019) AND REMAINING SUBSET PLANNED FOR THE 2021–2022 CONSTRUCTION WINDOW DURING THE RENEWAL IHA

SPE project feature	Pile type	Pile installation and/or extraction method	Numbers of piles included in 2018 IHA	Number of piles completed during 2020–2021 construction period [2]	Number of piles requested for 2021 renewal application	Number of pile driving days for 2021–2022 construction period
Pile removal from existing wave screen and pier.	15-inch (38 cm) to 18-inch (45 cm) creosote-treated timber.	Vibratory	36	22 (18-inch only)	0	0
Temporary Falsework.	36-inch steel (30 cm)	Vibratory installation and removal with potential "proofing".	27	0	0	0
Small craft mooring and dolphins.	24-inch steel (60 cm)	Vibratory with "proofing".	50	11	0	0
Pier and wave screen attachment.	36-inch steel (90 cm)	Vibratory with "proofing".	203	176	0	0
Fender piles	18-in concrete (45 cm).	Impact	103	0	103	35
Total			419	[1] 209	103	35

[1] Some of these piles were installed and some were removed per the specific project activity. Some of the total piles were temporarily installed and subsequently removed after installation. A total of 209 piles were utilized in construction activities during 2020–2021, in which 187 piles were installed, 22 piles were removed, and 0 piles were installed temporarily and then subsequently removed.
[2] Per the Navy's submitted Monitoring Report, not all piles for which take was originally authorized were installed or removed.

The proposed renewal would be effective from the date of issuance to July 15, 2022. A detailed description of the impact pile construction activities for which take is proposed here may be found in the notices of the proposed and final IHAs for the initial authorization. The location, timing, and nature of the activities, including the types of

equipment planned for use, are identical to those described in the previous notices.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the notices of the proposed and final IHAs for the initial authorization. NMFS has reviewed the monitoring data from the initial 2018 IHA, recent draft Stock Assessment Reports (SARs), information on relevant Unusual Mortality events, and other scientific literature, and determined that neither this nor any new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the 2018 IHA. The only changes from the 2018 IHA are an increase in the stock abundance of west coast transient killer whales (from 243 in 2009 to 349 in 2018), a decrease in the abundance of United States stock California sea lions (from 296,750 in 2011 to 257,606 in 2014), and an increase in the stock abundance of Steller sea lions of the eastern United States stock (from 41,638 in 2015 to 43,201 in 2017) (Carretta *et al.,* 2018, Muto *et al.,* 2019, Muto *et al.,* 2020). Preliminary determinations concluded from this updated information do not change the findings or conclusions from the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is proposed here may be found in the notices of the proposed and final IHAs for the initial 2018 authorization. NMFS has reviewed the monitoring data from the reissued IHA (83 FR 30406; June 28, 2018) and the modified IHA (85 FR 86538; December 30, 2020), recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

As stated above in the Description of the Specified Activities and Anticipated Impacts section, the purpose of this renewal IHA is to authorize take of marine mammals for the subset of the initially planned work that could not be completed before the expiration of the current IHA (July 15, 2021). The work completed in 2020–2021 and the subset that is left to be completed during the 2021–2022 construction window is listed in Table 2.

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notices of the proposed (83 FR 10689; March 12, 2018) and final (83 FR 30406; June 28, 2018) IHAs for the initial authorization, and for Level A harassment of harbor seals in the subsequent 2020 modification (85 FR 86538; December 30, 2020). Specifically, the source levels, days of operation (specific to the 35-days for the concrete pile installation), and marine mammal density and occurrence data applicable to this authorization remain unchanged from the previously issued IHA and modification, just the new, lesser remaining level of activity has been applied. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued 2018 IHA. The only difference would be the take numbers to be authorized during the 2021–2022 project, which would be composed of a subset of take previously authorized per the previous methods discussed in the 2018 IHA and subsequent modification.

Of note, as described in the notice of the proposed (85 FR 74989; November 24, 2020) and final modified IHA (85 FR 86538; December 30, 2020), at the time of the modification, PSOs had reported up to eight individually identifiable harbor seals that were frequenting the project site and believed to be habituated by varying degrees to in-water construction activities. The Navy's recent Monitoring Report for work conducted under the reissued and modified IHAs reported nine individually identifiable harbor seals; however, in consideration of the Navy's monitoring data overall, NMFS expects that the previous Level A harassment take calculation for harbor seals was already conservative, and did not recalculate using an estimated nine Level A harassment takes per day.

These proposed amounts of Level A and Level B harassment are indicated below in Table 3.

TABLE 3—PROPOSED TAKE OF MARINE MAMMAL STOCKS AND PERCENTAGE OF STOCK OR POPULATION FOR THE RENEWAL IHA DURING THE 2021–2022 PROJECT PERIOD

Species	Scientific name	Stock	Proposed authorized Level A harassment take	Proposed authorized Level B harassment take	Percent of stock proposed to be taken	
					Level A harassment	Level B harassment
Killer whale	*Orcinus orca*	West coast transient	0	0	0	[3] 0
Harbor porpoise	*Phocoena phocoena vomerina.*	Washington inland waters.	0	0	0	[3] 0
California sea lion	*Zalophus californianus*	United States	0	1,710	0	0.7
Steller sea lion	*Eumetopias jubatus monteriensis.*	Eastern United States	0	110	0	0.3
Harbor seal	*Phoca vitulina richardii*	Hood Canal	[1] 280	1,225	[2] n/a	[2] n/a

[1] Level A harassment take is associated with impact pile driving of the 18-inch concrete square pile, which was not conducted in 2020–2021 as planned and is part of the subset of work to be completed in 2021–2022.

[2] Because the stock information is not considered current, there are no minimum abundance estimates to use for calculation.

[3] Take of harbor porpoise and killer whale was included in the 2020 modified IHA (85 FR 86538; December 30, 2020); however, we do not take of either species to occur as a result of the remaining work that would be conducted under this renewal IHA.

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the modified IHA (85 FR 86538; December 30, 2020), and the discussion of the least practicable adverse impact included in that document and the Notices of the proposed IHAs remains accurate. This IHA, if issued, would be valid from the date of issuance through July 15, 2022 with construction activities occurring only during the pre-designated work window (July 16 through January 15). The following requirements, mitigation measures, monitoring, and reporting requirements are proposed for this renewal, as were previously included in the initial IHA and subsequent modification:

Timing Restrictions—To minimize the number of fish exposed to underwater noise and other construction disturbance, in-water work will occur during the in-water work window previously described when ESA-listed salmonids are least likely to be presence (USACE, 2015), July 16 to January 15.

All in-water construction activities will occur during daylight hours (sunrise to sunset) except from July 16 to September 15, when impact pile driving will only occur starting 2 hours after sunrise and ending 2 hours after sunset, to protected foraging marbled murrelets during the nesting season (April 15–September 23). Sunrise and sunset are to be determined based on National Oceanic and Atmospheric Administration data, which can be found at *http://www.srrb.noaa.gov/highlights/sunrise/sunrise.html.*

Soft-Start—The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a 30 second waiting period, then two subsequent reduced energy strike sets. (The reduced energy of an individual hammer cannot be quantified because it varies by individual drivers. Also, the number of strikes will vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer ''bouncing'' as it strikes the pile, resulting in multiple ''strikes.'')

A soft-start procedure will be used for impact pile driving at the beginning of each day's in-water pile driving or any time impact pile driving has ceased for more than 30 minutes.

Establishment of Shutdown Zones and Disturbance Zones—To the extent possible, the Navy will record and report on any marine mammal occurrences, including behavioral disturbances, beyond 100 m for concrete pile installation. The Navy will monitor and record marine mammal observations within zones and extrapolate these values across the entirety of the Level B harassment zone as part of the final monitoring report.

The shutdown zones are based on the distances from the source predicted for each threshold level. Although different functional hearing groups of cetaceans and pinnipeds were evaluated, the threshold levels used to develop the disturbance zones were selected to be conservative for cetaceans (and therefore at the lowest levels); as such, the disturbance zones for cetaceans were based on the high frequency threshold (harbor porpoise). The shutdown zones are based on the maximum calculated Level A harassment radius for pinnipeds and cetaceans during installation of concrete piles with impact techniques. These actions serve to protect marine mammals, allow for practical implementation of the Navy's marine mammal monitoring plan and reduce the risk of a take. The shutdown zone during any non-pile driving activity will always be a minimum of 10 meters (m; 33 feet (ft)) to prevent injury from physical interaction of marine mammals with construction equipment.

During all pile driving, the shutdown, Level A harassment, and Level B harassment zones as shown in Table 4 will be monitored out to the greatest extent possible with a focus on monitoring within 100 m for concrete pile installation.

The isopleths delineating shutdown, Level A harassment, and Level B harassment zones during impact driving of all concrete piles are shown in Table 4. The shutdown, Level A harassment, and Level B harassment isopleths for concrete impact driving remain unchanged from the notice of the issuance of the initial IHA (83 FR 30406; June 28, 2018). Note that the Shutdown Zone is larger than the Level A harassment isopleth which is larger than the Level B harassment isopleth for cetaceans, and that the Shutdown Zone is larger than the Level A harassment isopleth for harbor seals and sea lions.

TABLE 4—SHUTDOWN, LEVEL A HARASSMENT, AND LEVEL B HARASSMENT ISOPLETHS DURING IMPACT DRIVING OF CONCRETE PILES

Marine mammal group	Level B harassment isopleth (meters)	Level A harassment isopleth (meters)	Shutdown zone (meters)	Minimum monitoring zone for concrete piles
Cetaceans [1]	46	74	100	100 meters.[2]
Harbor seal	46	19	35	
Sea Lions	46	1	15	

[1] The take of harbor porpoise and killer whale was included in the 2020 modified IHA (85 FR 86538; December 30, 2020); however, we do not take of either species to occur as a result of the remaining work that would be conducted under this renewal IHA. Because of this, the Level A and B harassment isopleths and the Shutdown Zone for cetaceans is not likely to be relevant for this project.

[2] The Navy has noted in their renewal application that they will be monitoring a 100 meter radii from the project site, as practicable, in addition to the specified Level A and B harassment isopleths and the Shutdown Zone for each marine mammal group.

Further, note that the radii of the disturbance zones may be adjusted if in-situ acoustic monitoring is conducted by the Navy to establish actual distances to the thresholds for a specific pile type and installation method. However, any proposed acoustical monitoring plan must be pre-approved by NMFS. The results of any acoustic monitoring plan must be reviewed and approved by NMFS before the radii of any disturbance zones may be revised.

As described above, and in the notice proposed (85 FR 74989; November 24, 2020) and final modified IHA (85 FR 86538; December 30, 2020), at the time of the modification to the initial IHA, PSOs had reported up to eight

individually identifiable harbor seals that were frequenting the project site and believed to be habituated by varying degrees to in-water construction activities. Based on the preliminary monitoring report provided by the Navy with their renewal application, a ninth seal has been noted in the area; however this seal has not been noted as an individual seen ''daily'' and therefore not necessitated any changes to the harbor seal-specific mitigation measures mentioned below.

Even with a 35 m shutdown zone during impact driving, the Navy is still concerned that they would experience frequent work stoppages due to frequent visits by habituated harbor seals. This could result in continued schedule delays and cost overruns and could potentially require an extra year of in-water construction activities. Given this information, the Navy has indicated that it is not practicable for them to shut down or delay pile driving activities every time a harbor seal is observed in a shutdown zone. Therefore, they have proposed to apply identical measures to those in the modified IHA (85 FR 86538; December 30, 2020), in which shutdowns will be initiated for harbor seals when observed approaching or entering the Level A harassment zones as described above, except when one or more of the three habituated harbor seals identified as daily visitors approaches or enters an established shutdown zone. In such cases, a single take by Level A harassment shall be recorded for each individual seal for the entire day and operations will be allowed to continue without interruption; although the Navy must still shut down for these harbor seals if they occur within 10 m of the pile-driving site. The behavior of these three daily visitors will be monitored and recorded as well as the duration of time spent within the harassment zones. This information will be recorded individually for each of the three seals. If any other seals, including the five habituated seals identified as frequent visitors, approaches or enters into a Level A harassment zone, shutdown must occur.

The mitigation measures described above should reduce marine mammals' potential exposure to underwater noise levels which could result in injury or behavioral harassment. Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring Measures

Visual monitoring—PSOs will be positioned at the best practicable vantage points, taking into consideration security, safety, and space limitations. Each PSO location will have a minimum of one dedicated PSO (not including boat operators). There will be 3–5 PSOs working depending on the location, site accessibility and line of sight for adequate coverage. Additional standards required for visual monitoring include:

(a) Independent observers (*i.e.,* not construction personal) are required;

(b) At least one observer must have prior experience working as an observer;

(c) Other observers may substitute education (degree in biological science or related field) or training for experience;

(d) Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

Monitoring will be conducted by qualified observers, who will monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

(a) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

(b) Advanced education in biological science or related field (undergraduate degree or higher required);

(c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(d) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(e) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(f) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

(g) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

PSOs will survey the disturbance zone 15 minutes prior to initiation of pile driving through 30 minutes after completion of pile driving to ensure there are no marine mammals present. In case of reduced visibility due to weather or sea state, the PSOs must be able to see the shutdown zones or pile driving will not be initiated until visibility in these zones improves to acceptable levels. MMO Record forms (Appendix A of the original 2018 application; see NMFS's website) will be used to document observations. Survey boats engaged in marine mammal monitoring will maintain speeds equal to or less than 10 knots.

PSOs will use binoculars and the naked eye to search continuously for marine mammals and will have a means to communicate with each other to discuss relevant marine mammal information (*e.g.,* animal sighted but submerged with direction of last sighting). PSOs will have the ability to correctly measure or estimate the animals distance to the pile driving equipment such that records of any takes are accurate relevant to the pile size and type.

Shutdown shall occur if a species for which authorization has not been granted or for which the authorized numbers of takes have been met. The Navy shall then contact NMFS within 24 hours.

If marine mammal(s) are present within or approaching a shutdown zone prior to pile driving, the start of these activities will be delayed until the animal(s) have left the zone voluntarily and have been visually confirmed beyond the shutdown zone, or 15 minutes has elapsed without re-detection of the animal.

If animal is observed within or entering the Level B harassment zone during pile driving, a take would be recorded, behaviors documented. However, that pile segment would be completed without cessation, unless the animal approaches or enters the Shutdown Zone, at which point all pile driving activities will be halted. The PSOs shall immediately radio to alert the monitoring coordinator/construction contractor. This action will require an immediate ''all-stop'' on pile operations. Once a shutdown has been initiated, pile driving will be delayed until the

animal has voluntarily left the Shutdown Zone and has been visually confirmed beyond the Shutdown Zone, or 15 minutes have passed without re-detection of the animal (*i.e.,* the zone is deemed clear of marine mammals).

All marine mammals observed within the disturbance zones during pile driving activities will be recorded by PSOs. These animals will be documented as Level A harassment or Level B harassment takes as appropriate. Additionally, all shutdowns shall be recorded.

In the unanticipated event that: (1) The specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality; (2) an injured or dead animal is discovered and cause of death is known; or (3) an injured or dead animal is discovered and cause of death is not related to the project activities, the Navy will follow the protocols described in the Section 3 of Marine Mammal Monitoring Report (Appendix D of the original 2018 application).

Proposed Reporting

Reporting—PSOs must record specific information as described in the **Federal Register** notice of the issuance of the initial IHA (83 FR 30406; June 28, 2018) and the modified IHA (85 FR 86538; December 30, 2020). Within 90 days after completion of pile driving and removal activities, the Navy must provide NMFS with a monitoring report which includes summaries of recorded takes and estimates of the number of marine mammals that may have been harassed. If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the unanticipated event that: (1) The specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality; (2) an injured or dead animal is discovered and cause of death is known; or (3) an injured or dead animal is discovered and cause of death is not related to the project activities, the Navy will follow the protocols described in the Section 3 of Marine Mammal Monitoring Report (Appendix D of the application).

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA for the initial IHA (83 FR 10689; March 12, 2018) and modified IHA (85 FR 74989; November 24, 2020) and solicited public comments on both our proposal to issue the initial IHA (83 FR 30406; June 28, 2018) and modified IHA (85 FR 86538; December 30, 2020) for pile driving and removal activities and on the potential for a renewal IHA, should certain requirements be met. All public comments were addressed in the notice announcing the issuance of the initial IHA (83 FR 30406; June 28, 2018) and the modified IHA (85 FR 86538; December 30, 2020). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the renewal of the 2018 IHA (83 FR 30406; June 28, 2018) and the modified IHA (85 FR 86538; December 30, 2020).

Comment: The Commission requested clarification of certain issues associated with NMFS's notice that one-year renewals could be issued in certain limited circumstances and expressed concern that the renewal process, as proposed, would bypass the public notice and comment requirements. The Commission also suggested that NMFS should discuss the possibility of renewals through a more general route, such as a rulemaking, instead of notice in a specific authorization. The Commission further recommended that if NMFS did not pursue a more general route, that the agency provide the Commission and the public with a legal analysis supporting our conclusion that this process is consistent with the requirements of section 101(a)(5)(D) of the MMPA.

Response: In prior responses to comments about IHA Renewals (*e.g.,* 84 FR 52464; October 02, 2019, and 85 FR 53342, August 28, 2020), NMFS has explained how the Renewal process, as implemented, is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA, provides additional efficiencies beyond the use of abbreviated notices, and, further, promotes NMFS' goals of improving conservation of marine mammals and increasing efficiency in the MMPA compliance process. Therefore, we intend to continue implementing the Renewal process.

Preliminary Determinations

The proposed action of this renewal IHA for the installation of concrete piles by impact pile driving would be identical to a subset of the activities previously analyzed in the 2018 IHA (83 FR 30406; June 28, 2018), as listed in Table 2. Based on the analysis detailed in the notice of the final IHA for the 2018 authorization and subsequent 2020 modification, of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS found that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA (83 FR 30406; June 28, 2018). This includes consideration of the estimated abundance of the stocks for Steller sea lions (Eastern United States) and killer whales (West Coast transient), increasing slightly, and the estimated abundance for the stock of California sea lions (United States) decreasing slightly. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following:

(1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat;

(2) The authorized takes will have a negligible impact on the affected marine mammal species or stocks;

(3) The authorized takes represent small numbers of marine mammals relative to the affected stock abundances;

(4) The Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and;

(5) Appropriate monitoring and reporting requirements are included.

Endangered Species Act

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to the Navy for conducting impact pile driving at Naval Base Kitsap Bangor in Silverdale, Washington during the in-water construction window of July 16 through January 15, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor.* We request comment on

our analyses, the proposed renewal IHA, and any other aspect of this Notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: July 14, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB203]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys Off the Coast of Massachusetts and Rhode Island

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Mayflower Wind Energy LLC (Mayflower) to incidentally harass, by Level B harassment only, marine mammals during site characterization surveys off the coast of Massachusetts and Rhode Island in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0521) and along a potential submarine cable route to landfall at Falmouth, Massachusetts and Narragansett Bay.

DATES: This authorization is effective from July 1, 2021 through June 30, 2022.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

Summary of Request

On October 23, 2020, NMFS received a request from Mayflower for an IHA to take marine mammals incidental to site characterization surveys in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0521; Lease Area) and a submarine export cable route connecting the Lease Area to landfall in Falmouth, Massachusetts. A revised application was received on December 15, 2020. NMFS deemed that request to be adequate and complete on February 1, 2021. A notice of a proposed IHA was published in the **Federal Register** on March 1, 2021 (85 FR 11930). After publication of the proposed IHA Mayflower determined that they needed to add an additional export cable route corridor to their survey plan. Mayflower originally had proposed two separate but parallel export cable routes that would run north from the Lease Area between Martha's Vineyard and Nantucket islands through Nantucket Sound to a landfall location in Falmouth, MA. As part of the modification, Mayflower plans to eliminate the easternmost export cable corridor route between Martha's Vineyard and Nantucket and replace it with an export cable corridor route that runs south of Martha's Vineyard through Narragansett Bay to an unspecified landfall location in the Bay. The westernmost export cable route corridor to Falmouth, MA remains unchanged from the initial proposed IHA. Therefore, a final IHA was not issued and Mayflower submitted a modified application on April 19, 2021. NMFS published a notice of a modified proposed IHA on May 20, 2021 (86 FR 27393). Mayflower's request was for take of a small number of 14 species of marine mammals by Level B harassment only. Neither Mayflower nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to Mayflower for similar work (85 FR 45578; July 29, 2020) in the same Lease Area and along the same submarine cable route connected to Falmouth, MA that is effective from July 23, 2020 through July 22, 2021. However, the survey activity conducted under that IHA concluded on October 23, 2020. Mayflower submitted a marine mammal monitoring report and complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA. Information regarding their monitoring results may be found in the Estimated Take section.

Description of the Specified Activity

Mayflower plans to conduct marine site characterization surveys, including high-resolution geophysical (HRG) and geotechnical surveys, in the area of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf #OCS–A 0521 (Lease Area) and along potential submarine cable routes to landfall at Falmouth, Massachusetts and Narragansett Bay.

The objective of the activities is to acquire high resolution geophysical (HRG) and geotechnical data on the bathymetry, seafloor morphology, subsurface geology, environmental/biological sites, seafloor obstructions, soil conditions, and locations of any man-made, historical or archaeological resources within Lease Area OCS–A 0521 which is located approximately 20 nautical miles (38 kilometers (km)) south-southwest of Nantucket, Massachusetts covering approximately 515 km^2 and along the two planned export cable route corridors described above.

The total duration of HRG survey activities would be approximately 471 survey days with a total trackline distance of 14,350 kilometers (km). Each day that a survey vessel is operating counts as a single survey day. This schedule is based on 24-hour operations in the offshore, deep-water portion of the Lease Area, and 12-hour operations in shallow-water and nearshore areas of the export cable routes. Some shallow-water HRG activities will occur only during daylight hours. Mayflower would begin survey activities in July 2021 and conclude operations by December 31, 2021. The IHA is effective for 1 year from the date of issuance.

Underwater sound resulting from Mayflower's planned activities, specifically certain acoustic sources planned for use during its HRG surveys, has the potential to result in incidental take of marine mammals in the form of behavioral harassment.

The HRG survey activities planned by Mayflower are described in detail in the notice of modified proposed IHA (86 FR 27393; May 20, 2021). Since that time, no changes have been made to the planned HRG survey activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity. Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting below). The HRG equipment planned for use is shown in Table 1.

TABLE 1—SUMMARY OF HRG SURVEY EQUIPMENT PLANNED FOR USE THAT COULD RESULT IN TAKE OF MARINE MAMMALS

Specific HRG equipment	Operating frequency range (kHz)	Source level (dB rms)	Beamwidth (degrees)	Typical pulse duration (ms)	Pulse repetition rate (Hz)
Sparker					
Geomarine Geo-Spark 400 tip 800 J system	0.01–1.9	203	180	3.4	2
Applied Acoustics Dura-Spark UHD 400 tips, up to 800 J	0.01–1.9	203	180	3.4	2
Boomer					
Applied Acoustics S-Boom Triple Plate	0.01–5	205	61	0.6	3
Applied Acoustics S-Boom	0.01–5	195	98	0.9	3
Sub-bottom Profiler					
Edgetech 3100 with SB–2–16S towfish	2–16	179	51	9.1	10
Edgetech DW–106	1–6	176	66	14.4	10
Teledyne Benthos Chirp III—towfish	2–7	199	82	5.8	10
Knudson Pinger SBP	15	180	71	4	2

Comments and Responses

A notice of NMFS's modified proposal to issue an IHA to Mayflower was published in the **Federal Register** on May 20, 2021 (86 FR 27393). That notice described, in detail, Mayflower's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day comment period, NMFS received comments from a group of environmental non-governmental organizations (ENGOs) including the Natural Resources Defense Council, Conservation Law Foundation, National Wildlife Federation, Defenders of Wildlife, Southern Environmental Law Center, Surfrider Foundation, Mass Audubon, Friends of the Earth, International Fund for Animal Welfare, NY4WHALES, WDC Whale and Dolphin Conservation, Marine Mammal Alliance Nantucket and Gotham Whale.

Comment 1: The ENGOs stressed that NMFS must ensure undisturbed access to foraging habitat to adequately protect North Atlantic right whales since North Atlantic right whales employs a ''high-drag'' foraging strategy that enables them to selectively target high-density prey patches, but is energetically expensive.

Response: NMFS stated in the modified proposed IHA, that part of the Project Area coincides directly with year-round ''core'' North Atlantic right whale foraging habitat (Oleson *et al.,* 2020) south of Martha's Vineyard and Nantucket islands where both visual and acoustic detections of North Atlantic right whales indicate a nearly year-round presence (Oleson *et al.,* 2020). NMFS notes that prey for North Atlantic right whales are mobile and broadly distributed throughout the project area; therefore, North Atlantic right whales are expected to be able to resume foraging once they have moved away from any areas with disturbing levels of underwater noise. There is ample foraging habitat adjacent to the Project Area that is not ensonified by HRG sources. For example, in the fall of 2019 and 2020, North Atlantic right whales were particularly attracted to Nantucket Shoals, located to the east of the Project Area. Furthermore, the spatial acoustic footprint of the survey is very small relative to the spatial extent of the available foraging habitat. Finally, we have established a 500-m shutdown zone for North Atlantic right whales, which is more than three times as large as the greatest Level B harassment isopleth calculated for the specified activities for this IHA.

Comment 2: The ENGO's noted that harbor porpoises are particularly sensitive to noise, and, therefore, impacts to this species must be minimized and mitigated to the full extent practicable during offshore wind siting and development activities.

Response: Harbor porpoises are classified as high-frequency cetaceans (NMFS 2018) and are the hearing group with the lowest PTS onset thresholds, with maximum susceptibility to frequencies between 20 and 40 kHz (susceptibility decreases with outside this frequency range). However, the largest modeled distance to the Level A harassment threshold of for HF cetaceans was 57 m. Furthermore, this is a conservative assessment given that the model used to determine PTS isopleths treats all devices as impulsive and results in significant overestimates for non-impulsive devices, since PTS

onset thresholds are lower for impulsive sources compare to non-impulsive sources. Level A harassment would also be more likely to occur at close approach to the sound source or as a result of longer duration exposure to the sound source, and mitigation measures—including a 100 m exclusion zone (EZ) for harbor porpoises—are expected to minimize the potential for close approach or longer duration exposure to active HRG sources. In addition, harbor porpoises are known to be behaviorally sensitive species, in that they respond to comparatively lower received levels and are known to avoid vessels and other sound sources and, therefore, harbor porpoises would also be expected to avoid a sound source prior to that source reaching a level that would result in injury (Level A harassment). Therefore, NMFS has determined that take of harbor porpoises or any other animal by Level A harassment is unlikely to occur and has not authorized any such takes. Any takes by Level B harassment are anticipated to be limited to brief startling reactions and/or temporary avoidance of the Project Area. Further, appropriate mitigation measures have been included to ensure the least practicable adverse impact on harbor porpoises and other marine mammal species.

Comment 3: The ENGOs recommended that NMFS incorporate additional data sources into calculations of marine mammal density and take and that NMFS must ensure all available data are used to ensure that any potential shifts in North Atlantic right whale habitat usage are reflected in estimations of marine mammal density and take. The ENGOs asserted in general that the density models used by NMFS do not fully reflect the abundance, distribution, and density of marine mammals for the U.S. East Coast and therefore result in an underestimate of take.

Response: Habitat-based density models produced by the Duke University Marine Geospatial Ecology Lab (MGEL) (Roberts *et al.,* 2016, 2017, 2018, 2020) represent the best available scientific information concerning marine mammal occurrence within the U.S. Atlantic Ocean. Density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.,* 2016); more information, including the model results and supplementary information for each of those models, is available at *https://seamap.env.duke.edu/models/Duke/EC/.* These models provided key improvements over previously available information, by incorporating additional aerial and shipboard survey data from NMFS and from other organizations collected over the period 1992–2014, incorporating 60 percent more shipboard and 500 percent more aerial survey hours than did previously available models; controlling for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting; and modeling density from an expanded set of 8 physiographic and 16 dynamic oceanographic and biological covariates. In subsequent years, certain models have been updated on the basis of additional data as well as methodological improvements. In addition, a new density model for seals was produced as part of the 2017–18 round of model updates.

Of particular note, Roberts *et al.,* (2020) further updated density model results for North Atlantic right whales by incorporating additional sighting data and implementing three major changes: Increasing spatial resolution, generating monthly estimates on three time periods of survey data, and dividing the study area into 5 discrete regions. This most recent update—model version nine for North Atlantic right whales—was undertaken with the following objectives (Roberts *et al.,* 2020):

- To account for recent changes to right whale distributions, the model should be based on survey data that extend through 2018, or later if possible. In addition to updates from existing collaborators, data should be solicited from two survey programs not used in prior model versions including aerial surveys of the Massachusetts and Rhode Island Wind Energy Areas led by New England Aquarium (Kraus *et al.,* 2016), spanning 2011–2015 and 2017–2018 and recent surveys of New York waters, either traditional aerial surveys initiated by the New York State Department of Environmental Conservation in 2017, or digital aerial surveys initiated by the New York State Energy Research and Development Authority in 2016, or both.
- To reflect a view in the right whale research community that spatiotemporal patterns in right whale density changed around the time the species entered a decline in approximately 2010, consider basing the new model only on recent years, including contrasting ''before'' and ''after'' models that might illustrate shifts in density, as well as a model spanning both periods, and specifically consider which model would best represent right whale density in the near future.
- To facilitate better application of the model to near-shore management questions, extend the spatial extent of the model farther in-shore, particularly north of New York.
- Increase the resolution of the model beyond 10 kilometers (km), if possible.

All of these objectives were met in developing the most recent update to the North Atlantic right whale density model.

As noted above, NMFS has determined that the Roberts *et al.* suite of density models represent the best available scientific information. However, NMFS acknowledges that there may be additional data that is not reflected in the models and that may inform our analyses, whether because the data were not available to the model authors or because the data is more recent than the latest model version for a specific taxon.

The ENGOs pointed to additional data that can be obtained from sightings databases, passive acoustic monitoring efforts, aerial surveys, and autonomous vehicles. The ENGO's pointed specifically to monthly standardized marine mammal aerial surveys flown in the Massachusetts and Rhode Island and Massachusetts Wind Energy Areas by the New England Aquarium from October 2018 through August 2019 and March 2020 through July 2021. The 2018–2019 New England Aquarium study showed North Atlantic right whales were primarily found to the east of the Project Area although, distribution changed seasonally. There was only one North Atlantic right whale sighted in the Lease Area while limited numbers were found north of the Lease Area in the export cable corridor route occurring between Martha's Vineyard and Nantucket heading to a landfall location in Falmouth, MA. Sightings of north Atlantic right whales occurred in these areas only during the spring while Mayflower plans to conduct operations from June 2021 to December 31, 2021. Information on the results from the 2020–2021 aerial survey was unavailable at the time of the issuance of the final IHA. The commenters also referenced a study funded by the Bureau of Offshore Energy Management (BOEM) using an autonomous vehicle for real-time acoustical monitoring of marine mammals from December 2019 through March 2020 and again from December 2020 through February 2021 on Cox Ledge, located approximately 35 miles east of Montauk Point, New York between Block Island and Martha's Vineyard. Note that only a small portion of BOEM's acoustic study area overlapped with Mayflower's export cable corridor route running to Narraganset Bay. Between November 15, 2020 and February 26, 2021 (103 days)

North Atlantic right whales were acoustically detected on 19 days and possibly detected on an additional 12 days. Most of these detections and possible detections occurred south of Mayflower's planned export cable corridor route outside of the Project Area. No North Atlantic right whales were detected in BOEM's study area between March 25, 2021 and June 29, 2021 (96 days). The data from these recent studies does not indicate that NMFS should employ seasonal restrictions or alter any of the required mitigation and monitoring requirements, particularly as NMFS considers impacts from these types of survey operations to be near de minimis and that Mayflower will not be conducting survey operations during the spring. It would be difficult to draw any qualitative conclusions from these study results given that most of the observations and detections occurred outside of Mayflower's Project Area.

NMFS will review any other recommended data sources that become available to evaluate their applicability in a quantitative sense (*e.g.,* to an estimate of take numbers) and, separately, to ensure that relevant information is considered qualitatively when assessing the impacts of the specified activity on the affected species or stocks and their habitat. NMFS will continue to use the best available scientific information, and we welcome future input from interested parties on data sources that may be of use in analyzing the potential presence and movement patterns of marine mammals, including North Atlantic right whales, in U.S. Atlantic waters.

While the ENGO's referenced additional data, no specific recommendations were made with regard to use of this information in informing the take estimates. Rather, the commenters suggested that NMFS should ''collate and integrate these and more recent data sets to more accurately reflect marine mammal presence for future IHAs and other work.'' NMFS would welcome in the future constructive suggestions as to how these objectives might be more effectively accomplished. NMFS used the best scientific information available at the time the analyses for the proposed and modified proposed IHAs were conducted, and has considered all available data, including sources referenced by the commenters, in reaching its determinations in support of issuance of the IHA requested by Mayflower.

Comment 4: The ENGOs recommended that NMFS require the implementation of seasonal restrictions on site characterization activities that have the potential to injure or harass the North Atlantic right whale from December 1, 2021 through April 30, 2022. The ENGOs further note that they consider source levels greater than 180 dB re 1 μPa (SPL) at 1-meter at frequencies between 7 Hz and 35 kHz to be potentially harmful to low-frequency cetaceans.

Response: NMFS is concerned about the status of the North Atlantic right whale, given that a UME has been in effect for this species since June of 2017 and that there have been a number of recent mortalities. NMFS appreciates the value of seasonal restrictions under some circumstances. However, in this case, we have determined seasonal restrictions are not warranted since NMFS considers impacts from these types of survey operations to be near *de minimis.* NMFS, however, is requiring Mayflower to comply with restrictions associated with identified seasonal management areas (SMAs) and they must comply with dynamic management areas (DMAs), if any DMAs are established near the Project Area. Furthermore, we have established a 500-m shutdown zone for North Atlantic right whales, which is more than three times as large as the greatest Level B harassment isopleth calculated for the specified activities for this IHA (141 m). Take estimation conservatively assumes that these acoustic sources will operate on all survey days although it is probable that Mayflower will only use sparkers on a subset of survey days, and on the remaining days utilize HRG equipment with considerably smaller Level B harassment isopleths. Therefore, the number of Level B harassment takes is likely an overestimate. Finally, significantly shortening Mayflower's work season is impracticable given the number of survey days planned for the specified activity for this IHA.

It is unclear how the commenters determined that source levels greater than 180 dB re 1 μPa (SPL) are potentially harmful to low-frequency cetaceans. NMFS historically applied a received level (not source level) root mean square (rms) threshold of 180 dB SPL as the potential for marine mammals to incur PTS (*i.e.,* Level A (injury) harassment); however, in 2016, NMFS published it *Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing* which updated the 180 dB SPL Level A harassment threshold. Since that time, NMFS has been applying dual threshold criteria based on both peak and a weighted (to account for marine mammal hearing) cumulative sound exposure level. NMFS released a revised version of the Technical Guidance in 2018. We encourage the ENGOs to review the Technical Guidance available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance* to inform future reviews of any proposed IHA on which they may wish to comment. As described in the Estimated Take section, NMFS has established a PTS (Level A harassment) threshold of 183 dB cumulative SEL for low frequency specialists, and a right whale would need to approach within 2 meters of the source to potentially incur PTS from the largest source.

Comment 5: The ENGOs recommended that NMFS should prohibit the commencement of geophysical surveys at night to maximize the probability that marine mammals are detected and confirmed clear of the EZ. The commenters asserted that initiation of work should occur with ramp-up, only during daylight hours.

Response: NMFS acknowledges the limitations inherent in detection of marine mammals at night. However, no injury is expected to result even in the absence of mitigation, given the characteristics of the sources planned for use (supported by the very small estimated Level A harassment zones). The ENGOs do not provide any support for the apparent contention that injury is a potential outcome of these activities. Regarding Level B harassment, any potential impacts would be limited to short-term behavioral responses, as described in greater detail herein. The commenters establish that the status of North Atlantic right whales in particular is precarious. NMFS agrees in general with the discussion of this status provided by the commenters. Note that NMFS considers impacts from this category of survey operations to be near de minimis, with the potential for Level A harassment for any species to be discountable and the severity of Level B harassment (and, therefore, the impacts of the take event on the affected individual), if any, to be low. NMFS is also requiring Mayflower to deploy two PSOs during nighttime hours who must have access to night-vision equipment (*i.e.,* night-vision goggles and/or infrared technology). Given these factors, NMFS does not believe that there is a need for more restrictive mitigation requirements.

Restricting surveys in the manner suggested by the commenters may reduce marine mammal exposures by some degree in the short term, but would not result in any significant

reduction in either intensity or duration of noise exposure. Vessels would also potentially be on the water for an extended time introducing noise into the marine environment. The restriction recommended by the commenters could result in the surveys spending increased time on the water, which may result in greater overall exposure to sound for marine mammals; thus the commenters have not demonstrated that such a requirement would result in a net benefit. Furthermore, restricting the applicant to begin operations only during daylight hours would have the potential to result in lengthy shutdowns of the survey equipment, which could result in the applicant failing to collect the data they have determined is necessary and, subsequently, the need to conduct additional surveys the following year. This would result in significantly increased costs incurred by the applicant. Thus, the restriction suggested by the commenters would not be practicable for the applicant to implement. In consideration of the likely effects of the activity on marine mammals absent mitigation, potential unintended consequences of the measures as proposed by the commenters, and practicability of the recommended measures for the applicant, NMFS has determined that restricting operations as recommended is not warranted or practicable in this case.

Comment 6: Based on the assertion that the 160 dB threshold for behavioral harassment is not supported by best available scientific information and grossly underestimates Level B take, the ENGOs recommended that NMFS establish an EZ of 1,000 m around each vessel conducting activities with noise levels that they assert could result in injury or harassment to North Atlantic right whales, and a minimum EZ of 500 m for all other large whale species and strategic stocks of small cetaceans.

Response: NMFS disagrees with this recommendation and the assertion that the 160 dB threshold for behavioral harassment is not supported by best available scientific information and grossly underestimates take by Level B harassment.

Regarding the 160-dB threshold, NMFS acknowledges that the 160-dB rms step-function approach is simplistic, and that an approach reflecting a more complex probabilistic function may more effectively represent the known variation in responses at different levels due to differences in the receivers, the context of the exposure, and other factors. The commenters suggested that our use of the 160-dB threshold implies that we do not recognize the science indicating that animals may react in ways constituting behavioral harassment when exposed to lower received levels (RL). However, we do recognize the potential for Level B harassment at exposures to RLs below 160 dB rms, in addition to the potential that animals exposed to RLs above 160 dB rms will not respond in ways constituting behavioral harassment (*e.g.,* Malme *et al.,* 1983, 1984, 1985, 1988; McCauley *et al.,* 1998, 2000a, 2000b; Barkaszi *et al.,* 2012; Stone, 2015a; Gailey *et al.,* 2016; Barkaszi and Kelly, 2018). These comments appear to evidence a misconception regarding the concept of the 160-dB threshold. While it is correct that in practice it works as a step-function, *i.e.,* animals exposed to RLs above the threshold are considered to be ''taken'' and those exposed to levels below the threshold are not, it is in fact intended as a sort of mid-point of likely behavioral responses (which are extremely complex depending on many factors including species, noise source, individual experience, and behavioral context). What this means is that, conceptually, the function recognizes that some animals exposed to levels below the threshold will in fact react in ways that are appropriately considered take, while others that are exposed to levels above the threshold will not. Use of the 160-dB threshold allows for a simplistic quantitative estimate of take, while we can qualitatively address the variation in responses across different RLs in our discussion and analysis.

As behavioral responses to sound depend on the context in which an animal receives the sound, including the animal's behavioral mode when it hears sounds, prior experience, additional biological factors, and other contextual factors, defining sound levels that disrupt behavioral patterns is extremely difficult. Even experts have not previously been able to suggest specific new criteria due to these difficulties (*e.g.,* Southall *et al.* 2007; Gomez *et al.,* 2016).

Regarding the shutdown zone recommendation, we note that the 500-m EZ for North Atlantic right whales exceeds the modeled distance to the largest 160-dB Level B harassment isopleth distance (141 m) by a factor of more than three. Given that calculated Level B harassment isopleths are likely conservative, and NMFS considers impacts from HRG survey activities to be near *de minimis,* a 100-m shutdown for other marine mammal species (including large whales and strategic stocks of small cetaceans) is sufficiently protective to effect the least practicable adverse impact on those species and stocks.

Comment 7: The ENGOs recommended that Mayflower must employ a minimum of four protected species observers (PSOs) following a two-on, two-off rotation, each responsible for scanning no more than 180° of the horizon during both daylight and nighttime hours. The commenters also recommended that infrared equipment should be during daylight hours to maximize the probability of detection of marine mammals.

Response: NMFS typically requires that a single PSO must be stationed at the highest vantage point and engaged in general 360-degree scanning during daylight hours. Although NMFS acknowledges that the single PSO cannot reasonably maintain observation of the entire 360-degree area around the vessel, it is reasonable to assume that the single PSO engaged in continual scanning of such a small area (*i.e.,* 500-m EZ, which is greater than the maximum 141-m harassment zone) will be successful in detecting marine mammals that are available for detection at the surface. The monitoring reports submitted to NMFS have demonstrated that PSOs active only during daylight operations are able to detect marine mammals and implement appropriate mitigation measures. Nevertheless, as night vision technology has continued to improve, NMFS has adapted its practice, and two PSOs are required to be on duty at night. As the ENGOs noted, NMFS has included a requirement in the final IHA that night-vision equipment (*i.e.,* night-vision goggles with thermal clip-ons and infrared/thermal imaging technology) must be available for use. Under the issued IHA, survey operators are not required to provide PSOs with infrared devices during the day but observers are not prohibited from employing them. Given that use of infrared devices for detecting marine mammals during the day has been shown to be helpful under certain conditions, NMFS will consider requiring them to be made accessible for daytime PSOs.

Comment 8: The ENGOs recommended that NMFS should require passive acoustic monitoring (PAM) at all times, both day and night, to maximize the probability of detection for North Atlantic right whales, and other protected species and stocks.

Response: The foremost concern expressed by the ENGOs in making the recommendation to require use of PAM is with regard to North Atlantic right whales. However, the commenters do not explain why they expect that PAM would be effective in detecting

vocalizing mysticetes. It is generally well-accepted fact that, even in the absence of additional acoustic sources, using a towed passive acoustic sensor to detect baleen whales (including right whales) is not typically effective because the noise from the vessel, the flow noise, and the cable noise are in the same frequency band and will mask the vast majority of baleen whale calls. Vessels produce low-frequency noise, primarily through propeller cavitation, with main energy in the 5–300 Hertz (Hz) frequency range. Source levels range from about 140 to 195 decibel (dB) re 1 μPa (micropascal) at 1 m (NRC, 2003; Hildebrand, 2009), depending on factors such as ship type, load, and speed, and ship hull and propeller design. Studies of vessel noise show that it appears to increase background noise levels in the 71–224 Hz range by 10–13 dB (Hatch *et al.,* 2012; McKenna *et al.,* 2012; Rolland *et al.,* 2012). PAM systems employ hydrophones towed in streamer cables approximately 500 m behind a vessel. Noise from water flow around the cables and from strumming of the cables themselves is also low-frequency and typically masks signals in the same range. Experienced PAM operators participating in a recent workshop (Thode *et al.,* 2017) emphasized that a PAM operation could easily report no acoustic encounters, depending on species present, simply because background noise levels rendered any acoustic detection impossible. The same workshop report stated that a typical eight-element array towed 500 m behind a vessel could be expected to detect delphinids, sperm whales, and beaked whales at the required range, but not baleen whales, due to expected background noise levels (including seismic noise, vessel noise, and flow noise).

There are several additional reasons why we do not agree that use of PAM is warranted for 24-hour HRG surveys. While NMFS agrees that PAM can be an important tool for augmenting detection capabilities in certain circumstances, its utility in further reducing impact during HRG survey activities is limited. First, for this activity, the area expected to be ensonified above the Level B harassment threshold is relatively small (a maximum of 141 m)—this reflects the fact that, to start with, the source level is comparatively low and the intensity of any resulting impacts would be lower level and, further, it means that inasmuch as PAM will only detect a portion of any animals exposed within a zone, the overall probability of PAM detecting an animal in the harassment zone is low—together these factors support the limited value of PAM for use in reducing take with smaller zones. PAM is only capable of detecting animals that are actively vocalizing, while many marine mammal species vocalize infrequently or during certain activities, which means that only a subset of the animals within the range of the PAM would be detected (and potentially have reduced impacts). Additionally, localization and range detection can be challenging under certain scenarios. For example, odontocetes are fast moving and often travel in large or dispersed groups which makes localization difficult.

Given that the effects to marine mammals from the types of surveys authorized in this IHA are expected to be limited to low level behavioral harassment even in the absence of mitigation, the limited additional benefit anticipated by adding this detection method (especially for right whales and other low frequency cetaceans, species for which PAM has limited efficacy), and the cost and impracticability of implementing a full-time PAM program, we have determined the current requirements for visual monitoring are sufficient to ensure the least practicable adverse impact on the affected species or stocks and their habitat.

Comment 9: The ENGOs recommended that NMFS should require Mayflower to select sub-bottom profiling systems for survey activities, and operate those systems at power settings that achieve the lowest practicable source level for the objective.

Response: Wind energy developers selected the equipment necessary during HRG surveys to achieve their objectives. As part of the analysis for all HRG IHAs, NMFS evaluated the effects expected as a result of use of this equipment, made the necessary findings, and imposed mitigation requirements sufficient to achieve the least practicable adverse impact on the affected species and stocks of marine mammals. It is not within NMFS' purview to make judgments regarding what constitutes the ''lowest practicable source level'' for an operator's survey objectives.

Comment 10: The ENGOs recommended that NMFS require all offshore wind energy related project vessels operating within or transiting to/from survey areas, regardless of size, to observe a 10-knot speed restriction during the entire survey period.

Response: NMFS does not concur with these measures. NMFS has analyzed the potential for ship strike resulting from various HRG activities and has determined that the mitigation measures specific to ship strike avoidance are sufficient to avoid the potential for ship strike. These include: A requirement that all vessel operators comply with 10 knot (18.5 km/hour) or less speed restrictions in any established DMA or SMA; a requirement that all vessel operators reduce vessel speed to 10 knots (18.5 km/hour) or less when any large whale, mother/calf pairs, pods, or large assemblages of non-delphinid cetaceans are observed within 100 m of an underway vessel; a requirement that all survey vessels maintain a separation distance of 500 m or greater from any sighted North Atlantic right whale; a requirement that, if underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots or less until the 500 m minimum separation distance has been established; a requirement that all vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales; and a requirement that all vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel). We have determined that the ship strike avoidance measures are sufficient to ensure the least practicable adverse impact on species or stocks and their habitat. Furthermore, no documented vessel strikes have occurred for any marine site characterization survey activities which were issued IHAs from NMFS.

Comment 11: The ENGOs recommend that NMFS develop a robust and effective near real-time monitoring and mitigation system for North Atlantic right whales and other endangered and protected species that will be more responsive to the ongoing dynamic species distributional shifts resulting from climate change, as well as provide more flexibility to developers during offshore wind energy development.

Response: NMFS is generally supportive of this concept. A network of near real-time baleen whale monitoring devices are active or have been tested in portions of New England and Canadian waters. These systems employ various digital acoustic monitoring instruments which have been placed on autonomous platforms including slocum gliders, wave gliders, profiling floats and moored buoys. Systems that have proven to be successful will likely see increased use as operational tools for many whale monitoring and mitigation applications. The ENGOs cited the

NMFS publication ''Technical Memorandum NMFS–OPR–64: North Atlantic Right Whale Monitoring and Surveillance: Report and Recommendations of the National Marine Fisheries Service's Expert Working Group'' which is available at: *https://www.fisheries.noaa.gov/resource/document/north-atlantic-right-whale-monitoring-and-surveillance-report-and-recommendations.* This report summarizes a workshop NMFS convened to address objectives related to monitoring North Atlantic right whales and presents the Expert Working Group's recommendations for a comprehensive monitoring strategy to guide future analyses and data collection. Among the numerous recommendations found in the report, the Expert Working Group encouraged the widespread deployment of auto-buoys to provide near real-time detections of North Atlantic right whale calls that visual survey teams can then respond to for collection of identification photographs or biological samples.

Comment 12: The ENGOs state that NMFS must not issue renewal IHAs since the process is contrary to statutory requirements.

Response: NMFS' IHA renewal process meets all statutory requirements. In prior responses to comments about IHA Renewals (*e.g.,* 84 FR 52464; October 02, 2019 and 85 FR 53342, August 28, 2020), NMFS has explained how the renewal process, as implemented, is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA, provides additional efficiencies beyond the use of abbreviated notices, and, further, promotes NMFS' goals of improving conservation of marine mammals and increasing efficiency in the MMPA compliance process. Therefore, we intend to continue implementing the renewal process.

The notice of the modified proposed IHA published in the **Federal Register** on May 20, 2021 (86 FR 86 FR 27393) made clear that the agency was seeking comment on the modified proposed IHA and the potential issuance of a renewal for this project. Because any renewal is limited to another year of identical or nearly identical activities in the same location or the same activities that were not completed within the 1-year period of the initial IHA, reviewers have the information needed to effectively comment on both the immediate proposed IHA and a possible 1-year renewal, should the IHA holder choose to request one in the coming months.

While there would be additional documents submitted with a renewal request, for a qualifying renewal these would be limited to documentation that NMFS would make available and use to verify that the activities are identical to those in the initial IHA, are nearly identical such that the changes would have either no effect on impacts to marine mammals or decrease those impacts, or are a subset of activities already analyzed and authorized but not completed under the initial IHA. NMFS would also need to confirm, among other things, that the activities would occur in the same location; involve the same species and stocks; provide for continuation of the same mitigation, monitoring, and reporting requirements; and that no new information has been received that would alter the prior analysis. The renewal request would also contain a preliminary monitoring report, in order to verify that effects from the activities do not indicate impacts of a scale or nature not previously analyzed. The additional 15-day public comment period provides the public an opportunity to review these few documents, provide any additional pertinent information and comment on whether they think the criteria for a renewal have been met. Between the initial 30-day comment period on these same activities and the additional 15 days, the total comment period for a renewal is 45 days.

Changes From the Modified Proposed IHA to Final IHA

There were no changes made between the modified proposed IHA and the final IHA.

Description of Marine Mammals in the Area of the Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species).*

Table 2 lists all species or stocks for which take is expected and authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, NMFS follows Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or Project Area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Atlantic SARs. All values presented in Table 2 are the most recent available at the time of publication and are available in the 2019 Atlantic and Gulf of Mexico Marine Mammal SARs (Hayes *et al.,* 2020), available online at*: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region* and draft 2020 Atlantic and Gulf of Mexico Marine Mammal SARs available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.*

TABLE 2—MARINE MAMMALS LIKELY TO OCCUR IN THE PROJECT AREA THAT MAY BE AFFECTED BY MAYFLOWER'S PLANNED ACTIVITY

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Atlantic right whale	*Eubalaena glacialis*	Western North Atlantic	E/D; Y	412 (0; 408; 2018)	0.89	18.6
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-/-; Y	1,393 (0; 1,375; 2016)	22	58
Fin whale	*Balaenoptera physalus*	Western North Atlantic	E/D; Y	6,820 (0.24; 5,573; 2016)	12	2.35
Sei whale	*Balaenoptera borealis*	Nova Scotia	E/D; Y	6292 (1.02; 3,098; 2016)	6.2	1.2
Minke whale	*Balaenoptera acutorostrata*	Canadian East Coast	-/-; N	21,968 (0.31; 17,002; 2016).	170	10.6
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	*Physeter macrocephalus*	NA	E; Y	4,349 (0.28;3,451; See SAR).	3.9	0
Family Delphinidae:						
Long-finned pilot whale	*Globicephala melas*	Western North Atlantic	-/-; N	39,215 (0.3; 30,627; See SAR).	306	21
Bottlenose dolphin	*Tursiops truncatus*	Western North Atlantic Offshore.	-/-; N	62,851 (0.213; 51,914; See SAR).	519	28
Common dolphin	*Delphinus delphis*	Western North Atlantic	-/-; N	172,897 (0.21; 145,216; 2016).	1,452	399
Atlantic white-sided dolphin.	*Lagenorhynchus acutus*	Western North Atlantic	-/-; N	92,233 (0.71; 54,433; See SAR).	544	26
Risso's dolphin	*Grampus griseus*	Western North Atlantic	-/-; N	35,493 (0.19; 30,289; See SAR).	303	54.3
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-/-; N	95,543 (0.31; 74,034; 2016).	851	217
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Gray seal [4]	*Halichoerus grypus*	Western North Atlantic	-/-; N	27,131 (0.19; 23,158, 2016).	1,389	4,729
Harbor seal	*Phoca vitulina*	Western North Atlantic	-/-; N	75,834 (0.15; 66,884, 2012).	2,006	350

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP). Annual M/SI, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI values often cannot be determined precisely and is in some cases presented as a minimum value.

[4] NMFS stock abundance estimate applies to U.S. population only, actual stock abundance is approximately 451,431.

As indicated above, all 14 species (with 14 managed stocks) in Table 2 temporally and spatially co-occur with the planned activity to the degree that take is reasonably likely to occur, and NMFS has authorized such take.

A description of the marine mammals for which take is likely to occur may be found in the documents supporting Mayflower's previous IHA covering Lease Area OCS–A 0521 and potential submarine cable routes (85 FR 45578; July 29, 2020), the same general geographic areas where Mayflower has planned activities for this IHA. The most recent draft SARs data has been included in Table 2.

Effects of Specified Activities on Marine Mammals and Their Habitat

The underwater noise from Mayflower's survey activities has the potential to result in take of marine mammals by harassment in the vicinity of the survey area. The **Federal Register** notice for the proposed IHA (86 FR 11930; March 1, 2021) included a discussion of the effects of anthropogenic noise on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (86 FR 11930; March 1, 2021).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal

stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to HRG sources. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* EZs and shutdown measures), discussed in detail below in the Mitigation section, Level A harassment is neither anticipated nor authorized.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the authorized take.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner NMFS considers Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Mayflower's planned activity includes the use of intermittent sources (geophysical survey equipment), and therefore use of the 160 dB re 1 μPa (rms) threshold is applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Mayflower's planned activities that could result in take by harassment include the use of impulsive and non-impulsive sources.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal functional hearing groups were calculated. The updated acoustic thresholds for impulsive and non-impulsive sounds contained in the Technical Guidance (NMFS, 2018) were presented as dual metric acoustic thresholds using both cumulative sound exposure level (SEL_{cum}) and peak sound pressure level metrics. As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group.

These thresholds are provided in Table 3 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The planned survey activities would entail the use of HRG equipment. The distance to the isopleth corresponding to the threshold for Level B harassment was calculated for all HRG equipment with the potential to result in harassment of marine mammals. NMFS has developed methodology for determining the rms sound pressure level (SPL_{rms}) at the 160-dB isopleth for the purposes of estimating take by Level B harassment resulting from exposure to HRG survey equipment. This methodology incorporates frequency and some directionality to refine estimated ensonified zones. Mayflower used this methodology. For sources that operate with different beam widths, the maximum beam width was used. The lowest frequency of the source was used when calculating the absorption coefficient. The formulas used to apply the methodology are described in detail in Appendix A of the IHA application.

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG equipment and therefore recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to the Level B harassment threshold. Table 1 shows the HRG equipment types that may be used during the planned surveys and the sound levels associated with those HRG equipment.

TABLE 4—ESTIMATED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS FOR THE PLANNED SURVEY EQUIPMENT

Representative system(s)	Distance (m) to Level A harassment threshold [1]					Distance to Level B harassment threshold (m)
	LFC	MFC	HFC	PPW	OPW	All marine mammals
Sparker						
SIG ELC 820 @750 J	1	<1	[2] 4	<1	<1	141
Sub-Bottom Profiler						
Teledyne Benthos Chirp III	2	<1	57	1	<1	66
Boomer						
Applied Acoustics S-boom @700 J	<1	<1	[2] 1	<1	<1	90

[1] Distances to the Level A harassment threshold based on the larger of the dual criteria (peak SPL and SEL_{cum}) are shown.
[2] Peak SPL pressure level resulted in larger isopleth than SEL_{cum}.

NMFS has determined that the potential for take by Level A harassment is so low as to be discountable and has not authorized take by Level A harassment of any mammals. This determination is based on the modeling of distances to Level A harassment thresholds which resulted in small isopleths. This modeling was performed for all types of HRG equipment planned for use with the potential to result in harassment of marine mammals. Rather than repeat the description of the model here, NMFS refers the reader to the notice of modified proposed IHA published in the **Federal Register** (86 FR 27393; May 20, 2021). Note that there is one species (harbor porpoise) within the high frequency functional hearing group that may be impacted by the planned activities. However, the largest modeled distance to the Level A harassment threshold for the high frequency functional hearing group was 57 m (Table 4) for the Chirp III. This is likely a conservative assessment given that the JASCO model treats all devices as impulsive and results in gross overestimates for non-impulsive devices. Level A harassment would also be more likely to occur at close approach to the sound source or as a result of longer duration exposure to the sound source, and mitigation measures—including a 100 m EZ zone for harbor porpoises—are expected to minimize the potential for close approach or longer duration exposure to active HRG sources. In addition, harbor porpoises are a notoriously shy species which is known to avoid vessels. Harbor porpoises would also be expected to avoid a sound source prior to that source reaching a level that would result in injury (Level A harassment). Therefore, NMFS has determined that take of harbor porpoises or any other animal is unlikely to occur.

The largest distance to the 160 dB SPL_{rms} Level B harassment threshold is expected to be 141 m from the sparkers. This distance was used as described in this section to estimate the area of water potentially exposed above the Level B harassment threshold by the planned activities.

Up to 14,350 km of survey activity may occur from April through November 2021, including turns between lines or occasional testing of equipment while not collecting geophysical data. For the purposes of calculating take, Mayflower's HRG survey activities have been split into two different areas, (1) the lease area plus the deep-water portion of the cable route, and (2) the shallow water portion of the cable route including very shallow water sections of the cable route.

Within the Lease Area and deep-water portion of the cable route, the vessel will conduct surveys at a speed of approximately 3 knots (5.6 km/hr) during mostly 24-hr operations. Allowing for weather and equipment downtime, the survey vessel is expected to collect geophysical data over an average distance of 80 km per day. Using a 160 dB SPL_{rms} threshold distance of 141 m, the total daily

ensonified area is estimated to be 282.8 km² within the Lease Area and deep-water portion of the cable route.

Along the shallow-water portion of the cable route, survey vessels will also conduct surveys at a speed of approximately 3 knots (5.6 km/hr) during either daylight only or 24-hour operations. Survey operations in very shallow water will occur only during daylight hours. Allowing for weather and equipment downtime, the survey vessels are expected to cover an average distance of approximately 30–60 km per day in shallow waters and only 15 km per day in very shallow waters. Assuming daylight only operations and 30 km per day of surveys in shallow waters results in slightly larger ensonified area estimates. Distributing the 3,250 km of survey data to be collected in shallow waters and the 4,100 km to be collected in very shallow waters across the 7-month period of anticipated activity results in approximately 15.5 and 39 survey days per month in shallow and very-shallow waters, respectively. Using a 160 dB SPL_{rms} threshold distance of 141 m, the total daily ensonified area in shallow waters is estimated to be 8.5 km², and in very-shallow waters 4.3 km². Combined, these result in an average monthly ensonified area in the combined shallow water survey areas of 299.5 km².

Marine Mammal Occurrence

In this section NMFS provides the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Note that Mayflower submitted a partial marine mammal monitoring report under the existing IHA (85 FR 45578; July 39, 2020) which included the first 90 days of survey work. A total of 415 individual identifiable marine mammals from six species were observed within the predicted Level B harassment zone while an HRG source was active. These observations included one humpback whale, two minke whales, two sei whales, three bottlenose dolphins and 405 common dolphins. There were also two unidentified seal observations. An additional 24 unidentified dolphins and one unidentified whale were observed inside the estimated Level B harassment zone but those observations could not be identified to the species level. All mitigation and monitoring requirements were followed and Mayflower did not exceed authorized take limits for any species.

Density estimates for all species except North Atlantic right whale within the deep and shallow portions of the survey areas were derived from habitat-based density modeling results reported by Roberts *et al.* (2016, 2017, 2018). Those data provide abundance estimates for species or species guilds within 10 km x 10 km grid cells (100 km²) on a monthly or annual basis, depending on the species. In order to select a representative sample of grid cells in and near the survey areas, a 10-km wide perimeter around the lease area and an 8-km wide perimeter around the cable routes were created in GIS (ESRI 2017). The perimeters were then used to select grid cells near the survey areas containing the most recent monthly or annual estimates for each species in the Roberts *et al.* (2016, 2017, 2018) data. The average monthly abundance for each species in each survey area was calculated as the mean value of the grid cells within each survey area in each month and then converted to density (individuals/1 km²) by dividing by 100 km² (Table 5, Table 6).

The estimated monthly densities of North Atlantic right whales were based on updated model results from Roberts *et al.* (2020). These updated data for North Atlantic right whales are provided as densities (individuals/1 km²) within 5 km x 5 km grid cells (25 km²) on a monthly basis. The same GIS process described above was used to select the appropriate grid cells from each month and the monthly North Atlantic right whales density in each survey area was calculated as the mean value of the grid cells within each survey area as shown in Table 5 and Table 6.

The estimated monthly density of seals provided in Roberts *et al.* (2018) includes all seal species present in the region as a single guild. Mayflower did not separate this guild into the individual species based on the proportion of sightings identified to each species within the dataset because so few of the total sightings used in the Roberts *et al.* (2018) analysis were actually identified to species (Table 5, Table 6).

Marine mammal densities from Roberts *et al.* (2018) data in areas immediately adjacent to the coast and within Nantucket Sound were used when calculating potential takes from survey activities within Narragansett Bay. This is a conservative approach since there have only been a few reported sightings of marine mammal species, besides seals, within Narragansett Bay (Raposa 2009).

For comparison purposes and to account for local variation not captured by the predicted densities provided by Roberts *et al.* (2016, 2017, 2018, 2020), Protected Species Observers (PSOs) data from Mayflower's 2020 HRG surveys were analyzed to assess the appropriateness of the density-based take calculations. To do this, the total number of individual marine mammals sighted by PSOs within 150 m of a sound source (rounding up from the 141-m Level B harassment distance) from April 19 through September 19, 2020, a period of 23 weeks, were summed by species or ''unidentified'' species group when sightings were not classified to the species level. As a conservative approach, all sightings were included in this calculation regardless of whether the source was operating at the time. In order to include the ''unidentified'' individuals in the species-specific calculations, the number of individuals in each unidentified species group (*e.g.,* unidentified whale) was then added to the sums of the known species within that group (*e.g.,* humpback whale, fin whale, etc.) according to the proportion of individuals within that group positively identified to the species level. With individuals from ''unidentified'' species sightings proportionally distributed among the species, Mayflower then divided the total number of individuals of each species by the number of survey weeks to calculate the average number of individuals of each species sighted within 150 m of the sound sources per week during the surveys. See section 6.4 in application for additional detail.

Mayflower currently plans for its survey activities to be concluded in December 2021. If survey activities extend beyond December 2021, the monthly densities for the marine mammals listed below may change, potentially affecting take values. In that situation, Mayflower would need to contact NMFS to determine a path forward to ensure that they remain in compliance with the MMPA.

TABLE 5–AVERAGE MONTHLY DENSITIES FOR SPECIES THAT MAY OCCUR IN THE LEASE AREA AND ALONG THE DEEP-WATER SECTION OF THE CABLE ROUTE DURING THE PLANNED SURVEY PERIOD

Species	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mysticetes							
Fin Whale	0.0025	0.0025	0.0024	0.0020	0.0013	0.0011	0.0012
Humpback Whale	0.0012	0.0013	0.0009	0.0020	0.0015	0.0005	0.0006
Minke Whale	0.0018	0.0007	0.0005	0.0005	0.0005	0.0003	0.0004
North Atlantic Right Whale	0.0002	0.0000	0.0000	0.0000	0.0001	0.0005	0.0028
Sei Whale	0.0002	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Odontocetes							
Atlantic White-Sided Dolphin	0.0449	0.0318	0.0180	0.0183	0.0234	0.0249	0.0317
Common Bottlenose Dolphin	0.0267	0.0585	0.0483	0.0546	0.0459	0.0223	0.0136
Harbor Porpoise	0.0133	0.0088	0.0080	0.0067	0.0081	0.0267	0.0260
Pilot Whales	0.0046	0.0046	0.0046	0.0046	0.0046	0.0046	0.0046
Risso's Dolphin	0.0001	0.0003	0.0006	0.0005	0.0002	0.0002	0.0004
Short-Beaked Common Dolphin	0.0410	0.0432	0.0747	0.1187	0.1280	0.0903	0.1563
Sperm Whale	0.0001	0.0003	0.0003	0.0001	0.0001	0.0001	0.0000
Pinnipeds							
Seals (Harbor and Gray)	0.0322	0.0078	0.0041	0.0054	0.0085	0.0091	0.0345

TABLE 6—AVERAGE MONTHLY DENSITIES FOR SPECIES THAT MAY OCCUR ALONG THE SHALLOW-WATER SECTION OF THE CABLE ROUTE DURING THE PLANNED SURVEY PERIOD

Species	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mysticetes							
Fin Whale	0.0003	0.0003	0.0003	0.0003	0.0002	0.0001	0.0001
Humpback Whale	0.0001	0.0001	0.0000	0.0001	0.0002	0.0001	0.0017
Minke Whale	0.0002	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
North Atlantic Right Whale*	0.0000	0.0000	0.0000	0.0000	0.0000	0.0001	0.0005
Sei Whale*	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Odontocetes							
Atlantic White-Sided Dolphin	0.0010	0.0006	0.0005	0.0008	0.0014	0.0011	0.0006
Common Bottlenose Dolphin	0.2308	0.4199	0.3211	0.3077	0.1564	0.0813	0.0174
Harbor Porpoise	0.0048	0.0023	0.0037	0.0036	0.0003	0.0214	0.0253
Pilot Whales	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Risso's Dolphin	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Short-Beaked Common Dolphin	0.0003	0.0002	0.0006	0.0009	0.0008	0.0010	0.0006
Sperm Whale	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Pinnipeds							
Seal (Harbor and Gray)	0.2496	0.0281	0.0120	0.0245	0.0826	0.5456	1.3589

Take Calculation and Estimation

Here NMFS describes how the information provided above is brought together to produce a quantitative take estimate.

The potential numbers of takes by Level B harassment were calculated by multiplying the monthly density for each species in each survey area shown in Table 5 and Table 6 by the respective monthly ensonified area within each survey area. The results are shown in the ''Calculated Take'' columns of Table 7. The survey area estimates were then summed to produce the ''Total Density-based Calculated Take'' and then rounded up to arrive at the number of ''Density-based Takes'' for each species (Table 7).

To account for potential local variation in animal presence compared to the predicted densities, the average weekly number of individuals for each species observed within 150 m of the HRG survey sound sources in 2020, regardless of their operational status at the time were multiplied by the anticipated 32-week survey period in 2021. These results are shown in the ''Sightings-based Takes'' column of Table 7. The larger of the take estimates from the density-based and sightings-based methods are shown in the ''Take'' column, except as noted below.

Based on density and sightings data for the modified Project Area, Mayflower modified its take authorization request and NMFS concurred with its modification. Accordingly, NMFS has authorized the following take reductions by Level B harassment as part of the issued IHA: 37 to 33 humpback whale takes; 15 to 14 minke whale takes; 85 to 57 Atlantic white-sided dolphin takes; 2,153 to 1,969 common dolphin takes; 61 to 46 harbor porpoise takes; and 989 to 718 seal takes. The number of authorized takes by Level B harassment for bottlenose dolphins has been increased from 483 to 536.

The differences in requested take for four species (Atlantic white-sided dolphin, common bottlenose dolphin, harbor porpoise, and seals) resulted from a combination of different monthly densities as well as a different monthly ensonified area being applied to those densities. The same calculations were performed for all species, so the relative changes in the requested take for these species was driven by the amount of change in monthly densities for each species. The densities changed between applications for two reasons, (1) the survey area location was changed to include the alternative cable route and (2) the months in which the activity will occur were shifted later in the year, from April–November to June–December. The various combinations of changes to these factors resulted in different relative changes to the requested takes for these four species.

For the other three species (*i.e.,* humpback whale, minke whale, common dolphin) take calculated based on Roberts *et al.* densities was considerably lower than observed numbers of animals during the 2020 surveys. Therefore, the numbers of observations per week were considered more representative of the area densities. For humpback whale, the requested take in the original proposed IHA was based on the average weekly sightings rate from 2020 PSO observations (1.04 humpback whales/week). The reduction in the authorized take is a result of the shortened overall length of the activity from 35 weeks to 32 weeks. For minke whale, the average weekly sightings rate from 2020 PSO observations (0.43 minke whales/week) reduced authorized take due to shortened overall length of the activity (from 35 weeks to 32 weeks). The same reduction in authorized take of common dolphin was similarly based on the average weekly sightings rate from 2020 PSO observations (61.52 common dolphins/week) and the decreased overall length of the activity. The reduction in the requested take is a result of the shortened overall length of the activity (from 35 weeks to 32 weeks).

Using the best available density data (Roberts *et al.* 2016, 2017, 2018, 2020), Mayflower requested and NMFS has authorized 57 takes of white-sided dolphin, 536 takes of bottlenose dolphin and 46 harbor porpoise takes by Level B harassment. For six species, humpback whale, North Atlantic right whale, sei whale, pilot whales, Risso's dolphin, and sperm whale the authorized take column reflects a rounding up of three times the mean group size calculated from survey data in this region (Kraus *et al.* 2016; Palka *et al.* 2017). Three times the group size was used rather than a single group size to account for more than one chance encounter with these species during the surveys.

NFMS concurred with this assessment and, therefore, has authorized take by Level B harassment of 9 North Atlantic right whales, 6 fin whales, 6 sei whales, 27 pilot whales, 18 Risso's dolphins and 6 sperm whales. The authorized take numbers for these species remains unchanged from the original proposed IHA.

The authorized number of takes by Level B harassment as a percentage of the ''best available'' abundance estimates provided in the most recent NMFS draft Stock Assessment Reports (Hayes *et al.* 2020) are also provided in Table 7. For the seal guild, the estimated abundance for both gray and harbor seals was summed in Table 7. Mayflower requested and NMFS has authorized 718 incidental takes of harbor and gray seal by Level B harassment.

Bottlenose dolphins encountered in the survey area would likely belong to the Western North Atlantic Offshore Stock (Hayes *et al.* 2020). However, it is possible that a few animals encountered during the surveys could be from the North Atlantic Northern Migratory Coastal Stock, but they generally do not range farther north than New Jersey. Also, based on the distributions described in Hayes *et al.* (2020), pilot whale sightings in the survey area would most likely be long-finned pilot whales, although short-finned pilot whales could be encountered in the survey area during the summer months.

For North Atlantic right whales, the implementation of a 500 m EZ means that the likelihood of an exposure to received sound levels greater than 160 dB SPL_{rms} is very low. In addition, most of the survey activity will take place during the time of year when North Atlantic right whales are unlikely to be present in this region. Nonetheless, it is possible that North Atlantic right whales could occur within 500 m of the vessel without first being detected PSO, so Mayflower requested and NMFS has authorized take consistent with other species (*i.e.* three times average group size).

TABLE 7—NUMBER OF LEVEL B HARASSMENT TAKES AUTHORIZED BY NMFS AND PERCENTAGES OF EACH STOCK ABUNDANCE

	Lease area + deep water cable	Shallow water cable	Total density-based takes	Density based takes	Sightings based takes	Authorized takes	Abundance	Percent of stock abundance
Mysticetes								
Fin Whale	3.7	0.5	4.1	5	1	6	3,006	0.2
Humpback Whale	2.2	0.7	2.9	3	33	33	1,396	2.4
Minke Whale	1.3	0.1	1.5	2	14	14	2,591	0.5
North Atlantic Right Whale	1.0	0.2	1.2	2	0	9	368	2.4
Sei Whale	0.1	0.0	0.1	1	0	6	28	21.4
Odontocetes								
Atlantic White-Sided Dolphin	54.6	1.8	56.4	57	0	57	31,912	0.2
Common Bottlenose Dolphin	76.3	459.6	536.0	536	59	536	62,851	0.9
Harbor Porpoise	27.6	18.4	46.0	46	0	46	75,079	0.1
Pilot Whales	9.2	0.0	9.2	10	17	27	68,139	0.0
Risso's Dolphin	0.7	0.0	0.7	1	0	18	35,493	0.1
Short-Beaked Common Dolphin	184.5	1.3	185.8	186	1,969	1,969	80,227	2.5
Sperm Whale	0.3	0.0	0.3	1	0	6	4,349	0.1

TABLE 7—NUMBER OF LEVEL B HARASSMENT TAKES AUTHORIZED BY NMFS AND PERCENTAGES OF EACH STOCK ABUNDANCE—Continued

	Lease area + deep water cable	Shallow water cable	Total density-based takes	Density based takes	Sightings based takes	Authorized takes	Abundance	Percent of stock abundance
Pinnipeds								
Seals (Harbor and Gray) ...	28.7	689.2	718.0	718	141	718	102,965	0.7

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS carefully considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

Marine Mammal Exclusion Zones and Harassment Zones

NMFS is requiring Mayflower to implement the following mitigation measures during Mayflower's planned marine site characterization surveys.

Marine mammal EZs would be established around the HRG survey equipment and monitored by protected species observers (PSO) during HRG surveys as follows:

- A 500-m EZ would be required for North Atlantic right whales during use of all acoustic sources; and
- 100 m EZ for all marine mammals, with certain exceptions specified below, during operation of impulsive acoustic sources (boomer and/or sparker).

If a marine mammal is detected approaching or entering the EZs during the HRG survey, the vessel operator would adhere to the shutdown procedures described below to minimize noise impacts on the animals. These stated requirements will be included in the site-specific training to be provided to the survey team.

Pre-Clearance of the Exclusion Zones

Mayflower will implement a 30-minute pre-clearance period of the EZs prior to the initiation of ramp-up of HRG equipment. During this period, the EZ will be monitored by the PSOs, using the appropriate visual technology. Ramp-up may not be initiated if any marine mammal(s) is within its respective EZ. If a marine mammal is observed within an EZ during the pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting its respective EZ or until an additional time period has elapsed with no further sighting (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for all other species).

Ramp-Up of Survey Equipment

When technically feasible, a ramp-up procedure will be used for HRG survey equipment capable of adjusting energy levels at the start or restart of survey activities. The ramp-up procedure will be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the Project Area by allowing them to vacate the area prior to the commencement of survey equipment operation at full power.

A ramp-up will begin with the powering up of the smallest acoustic HRG equipment at its lowest practical power output appropriate for the survey. When technically feasible, the power will then be gradually turned up and other acoustic sources would be added.

Ramp-up activities will be delayed if a marine mammal(s) enters its respective EZ. Ramp-up will continue if the animal has been observed exiting its respective EZ or until an additional time period has elapsed with no further sighting (*i.e,* 15 minutes for small odontocetes and seals and 30 minutes for all other species).

Activation of survey equipment through ramp-up procedures may not occur when visual observation of the pre-clearance zone is not expected to be effective (*i.e.,* during inclement conditions such as heavy rain or fog).

Shutdown Procedures

An immediate shutdown of the impulsive HRG survey equipment is required if a marine mammal is sighted entering or within its respective EZ. The vessel operator must comply immediately with any call for shutdown by the Lead PSO. Any disagreement between the Lead PSO and vessel operator should be discussed only after shutdown has occurred. Subsequent restart of the survey equipment can be initiated if the animal has been observed exiting its respective EZ or until an additional time period has elapsed *(i.e.,* 30 minutes for all other species).

If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (48 m, non-impulsive; 141 m impulsive), shutdown will occur.

If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant observation and no detections of any marine mammal have occurred within the respective EZs. If the acoustic source is shut down for a period longer than 30 minutes and PSOs have maintained constant observation, then pre-clearance and ramp-up procedures will be initiated as described in the previous section.

The shutdown requirement would be waived for small delphinids of the following genera: *Delphinus, Lagenorhynchus, Stenella,* and *Tursiops* and seals. Specifically, if a delphinid from the specified genera or a pinniped is visually detected approaching the vessel (*i.e.,* to bow ride) or towed equipment, shutdown is not required. Furthermore, if there is uncertainty regarding identification of a marine mammal species (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgement in making the decision to call for a shutdown. Additionally, shutdown is required if a delphinid or pinniped detected in the EZ and belongs to a genus other than those specified.

Vessel Strike Avoidance

Mayflower will ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds and slow down or stop their vessels to avoid striking these species. Survey vessel crew members responsible for navigation duties will receive site-specific training on marine mammals sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures would include the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A visual observer aboard the vessel must monitor a vessel strike avoidance zone based on the appropriate separation distance around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal.
- All vessels (*e.g.,* source vessels, chase vessels, supply vessels), regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes including SMAs and DMAs when in effect;
- All vessels greater than or equal to 19.8 m in overall length operating from November 1 through April 30 will operate at speeds of 10 knots or less while transiting to and from Project Area;
- All vessels must reduce their speed to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.
- All vessels must maintain a minimum separation distance of 500 m from right whales. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action.
- All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales.
- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel).
- When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.
- These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.
- Members of the monitoring team will consult NMFS North Atlantic right whale reporting system and Whale Alert, as able, for the presence of North Atlantic right whales throughout survey operations, and for the establishment of a DMA. If NMFS should establish a DMA in the Lease Areas during the survey, the vessels will abide by speed restrictions in the DMA.

Project-specific training will be conducted for all vessel crew prior to the start of a survey and during any changes in crew such that all survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements. Prior to implementation with vessel crews, the training program will be provided to NMFS for review and approval. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew member understands and will comply with the necessary requirements throughout the survey activities.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, we have determined that the required mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the planned action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or

cumulative impacts from multiple stressors.

- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

Monitoring Measures

Visual monitoring will be performed by qualified, NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. Mayflower would employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for their designated task. On a case-by-case basis, non-independent observers may be approved by NMFS for limited, specific duties in support of approved, independent PSOs on smaller vessels with limited crew capacity operating in nearshore waters.

The PSOs will be responsible for monitoring the waters surrounding each survey vessel to the farthest extent permitted by sighting conditions, including EZs, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established EZs during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

During all HRG survey operations (*e.g.,* any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty during daylight operations on each survey vessel, conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset). Two PSOs will be on watch during nighttime operations. The PSO(s) would ensure 360° visual coverage around the vessel from the most appropriate observation posts and would conduct visual observations using binoculars and/or night vision goggles and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least two hours between watches and may conduct a maximum of 12 hours of observation per 24-hour period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals would be communicated to PSOs on all nearby survey vessels.

Vessels conducting HRG survey activities in very-shallow waters using shallow-draft vessels are very limited in the number of personnel that can be onboard. In such cases, one visual PSO will be onboard and the vessel captain (or crew member on watch) will conduct observations when the PSO is on required breaks. All vessel crew conducting PSO watches will receive training in monitoring and mitigation requirements and species identification necessary to reliably carry out the mitigation requirements. Given the small size of these vessels, the PSO would effectively remain available to confirm sightings and any related mitigation measures while on break.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to EZs. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, night-vision goggles with thermal clip-ons and infrared technology would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs will also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources. Any observations of marine mammals by crew members aboard any vessel associated with the survey will be relayed to the PSO team.

Data on all PSO observations will be recorded based on standard PSO collection requirements. This will include dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed marine mammal behavior that occurs (*e.g.,* noted behavioral disturbances).

Reporting Measures

Within 90 days after completion of survey activities or expiration of this IHA, whichever comes sooner, a final technical report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals observed during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. All draft and final marine mammal and acoustic monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov.* The report must contain, at minimum, the following:

- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;
- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions); and
- Survey activity information, such as type of survey equipment in operation, acoustic source power output while in operation, and any other notes of significance (*i.e.,* pre-clearance survey, ramp-up, shutdown, end of operations, etc.).

If a marine mammal is sighted, the following information should be recorded:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach and/or closest distance from the center point of the acoustic source;
- Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other); and
- Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

If a North Atlantic right whale is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, Mayflower must immediately report sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System: (866) 755–6622. North Atlantic right whale sightings in any location may also be reported to the U.S. Coast Guard via channel 16.

In the event that Mayflower personnel discover an injured or dead marine mammal, Mayflower would report the incident to the NMFS Office of Protected Resources (OPR) and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

In the unanticipated event of a ship strike of a marine mammal by any vessel involved in the activities covered by the IHA, Mayflower would report the incident to the NMFS OPR and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Species identification (if known) or description of the animal(s) involved;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. NMFS also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 7 given that NMFS expects the anticipated effects of the planned survey to be similar in nature. Where there are meaningful differences between species or stocks—as in the case of the North Atlantic right whale—they are included as separate subsections below.

NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, even in the absence of mitigation, and no serious injury or mortality is authorized. As discussed in the Potential Effects of Specified Activity on Marine Mammals and their Habitat section in the initial notice of proposed IHA (86 FR 11930; March 1, 2021), non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of short-term Level B harassment behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). Even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability

for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. As described above, Level A harassment is not expected to occur given the nature of the operations, the estimated size of the Level A harassment zones, and the required shutdown zones for certain activities—and is not authorized. The potential effects associated with the addition of the new export cable route extending through Narragansett Bay are similar to those described in the initial notice of proposed IHA (86 FR 11930; March 1, 2021).

In addition to being temporary, the maximum expected harassment zone for the modified proposed IHA is identical to that in the initial proposed IHA with a distance of 141 m per vessel. Therefore, the ensonified area surrounding each vessel is also identical, and relatively small, compared to the overall distribution of the animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the modified Project Area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Similar to the initial proposed IHA, given the temporary nature of the disturbance and availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations in the issued IHA.

Furthermore, the Project Area is located approximately 50 miles west of feeding BIAs for North Atlantic right whales (February–April) and sei whales (May–November) and approximately 40 west of feeding BIAs for humpback whales (March–December) and fin whales (March–October). These were discussed in the previous IHA (85 FR 45578; July 29, 2020) issued for this area. Additionally, the new Narragansett Bay cable route corridor is located just to the north of another fin whale BIA (March–October) south of Martha's Vineyard. Even if whales are feeding outside of the identified feeding BIAs, they are extensive and sufficiently large (705 km^2 and 3,149 km^2 for North Atlantic right whales; 47,701 km^2 for humpback whales; 2,933 km^2 for fin whales; and 56,609 km^2 for sei whales), and the acoustic footprint of the planned survey is sufficiently small, such that feeding opportunities for these whales would not be reduced appreciably. Therefore, under the issued IHA, NMFS does not expect impacts to whales within feeding BIAs to affect the fitness of any large whales. Furthermore, NMFS does not anticipate impacts from the planned survey that would impact the fitness of any individual marine mammals, much less annual rates of recruitment.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the Project Area. Furthermore, there is no designated critical habitat for any ESA-listed marine mammals in the Project Area.

North Atlantic Right Whales

The status of the North Atlantic right whale population is of heightened concern and, therefore, merits additional analysis. As noted previously, elevated North Atlantic right whale mortalities began in June 2017 and there is an active UME. Overall, our findings support human interactions, specifically vessel strikes and entanglements, as the cause of death for the majority of North Atlantic right whales. In addition to the right whale feeding BIA located west of the planned Project Area noted above, the Project Area overlaps a migratory corridor BIA for North Atlantic right whales (effective March–April and November–December) that extends from Massachusetts to Florida (LeBrecque *et al.,* 2015). Off the coast of Massachusetts, this migratory BIA extends from the coast to beyond the shelf break. Due to the fact that that the planned survey activities are temporary and the spatial extent of sound produced by the survey would be very small relative to the spatial extent of the available migratory habitat in the BIA, right whale migration is not expected to be impacted by the planned survey. Given the relatively small size of the ensonified area, it is unlikely that prey availability would be adversely affected by HRG survey operations. Required vessel strike avoidance measures will also decrease risk of ship strike during migration; no ship strike is expected to occur during Mayflower's planned activities. Additionally, only very limited take by Level B harassment of North Atlantic right whales has been requested by Mayflower and authorized by NMFS as HRG survey operations are required to maintain a 500-m EZ and shutdown if a North Atlantic right whale is sighted at or within the EZ. The 500-m shutdown zone for North Atlantic right whales is conservative, considering the Level B harassment isopleth for the most impactful acoustic source (*i.e.,* GeoMarine Geo-Source 400 tip sparker) is estimated to be 141 m, and thereby minimizes the potential for behavioral harassment of this species. As noted previously, Level A harassment is not expected due to the small PTS zones associated with HRG equipment types planned use.

As described previously, North Atlantic right whale presence is increasingly variable in identified core habitats, including the recently identified foraging area south of Martha's Vineyard and Nantucket islands where both visual and acoustic detections of North Atlantic right whales indicate a nearly year-round presence (Oleson *et al.,* 2020). However, prey for North Atlantic right whales are mobile and broadly distributed throughout the Project Area; therefore, North Atlantic right whales are expected to be able to resume foraging once they have moved away from any areas with disturbing levels of underwater noise. In addition, there are no North Atlantic right whale mating or calving areas within the Project Area.

Given the information above, NMFS does not anticipate North Atlantic right whales takes that would result from Mayflower's planned activities would impact the reproduction or survival of any individual North Atlantic right whales, much less annual rates of recruitment or survival. Thus, any takes that occur under the issued IHA would not result in population level impacts for the species.

Other Marine Mammal Species With Active UMEs

As noted in the previous IHA (85 FR 45578; July 29, 2020) there are several active UMEs occurring in the vicinity of Mayflower's Project Area. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the Gulf of Maine humpback whale stock) is characterized by a positive trend in abundance of approximately 2.8 percent (Hayes *et al.* 2020).

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the population

abundance is greater than 20,000 whales.

Elevated numbers of harbor seal and gray seal mortalities were first observed in July 2018 and have occurred across Maine, New Hampshire, and Massachusetts. Based on tests conducted so far, the main pathogen found in the seals is phocine distemper virus, although additional testing to identify other factors that may be involved in this UME are underway. The UME does not yet provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 75,000 and annual M/SI (350) is well below PBR (2,006) (Hayes *et al.,* 2020). The population abundance for gray seals in the United States is over 27,000, with an estimated abundance, including seals in Canada, of approximately 505,000. In addition, the abundance of gray seals is likely increasing in the U.S. Atlantic Exclusive Economic Zone as well as in Canada (Hayes *et al.,* 2020).

The required mitigation measures are expected to reduce the number and/or severity of authorized takes for all species listed in Table 7, including those with active UME's to the level of least practicable adverse impact. In particular they would provide animals the opportunity to move away from the sound source throughout the Project Area before HRG survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury (Level A harassment) or more severe Level B harassment. No Level A harassment is anticipated, even in the absence of mitigation measures, or authorized by NMFS.

NMFS expects that takes would be in the form of short-term Level B harassment behavioral harassment by way of brief startling reactions and/or temporary vacating of the area, or temporarily decreased foraging (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological consequences. Since both the sources and marine mammals are mobile, animals would only be exposed briefly to a small ensonified area that might result in take. Additionally, required mitigation measures would further reduce exposure to sound that could result in more severe behavioral harassment.

Mayflower's planned HRG survey activities consist of 471 survey days (conducted by up to four survey vessels) and the total trackline distance is 14,350 km, which are identical to the values presented in the initial proposed IHA (86 FR 11930; March 1, 2021) and any effects or impacts are expected to be similar. Note that due to differences in densities in the cable route corridors associated with the initial proposed IHA compared to the issued IHA authorized takes in the issued IHA have been reduced for 6 species (*i.e.,* humpback whale, minke whale, Atlantic white-sided dolphin, common dolphin, harbor porpoise and seal) while authorized take has only increased for one species (*i.e.,* bottlenose dolphin).

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or authorized;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures, or authorized;
- Take is anticipated to be limited to Level B behavioral harassment consisting of brief startling reactions and/or temporary avoidance of the Project Area;
- Due to the relatively small footprint of the survey activities in relation to the size of feeding BIAs for North Atlantic right, humpback, fin, and sei whales, the survey activities are not expected to directly affect foraging success of these whale species;
- Foraging success is not likely to be significantly impacted through effects on species that serve as prey species for marine mammals, as effects from the survey are expected to be minimal;
- Alternate areas of nearby similar habitat value will be available for marine mammals that temporarily vacate the Project Area during the planned survey to avoid exposure to sounds from the activity;
- While the Project Area is within areas noted as a migratory BIA for North Atlantic right whales, the activities would occur in such a comparatively small area such that any avoidance of the Project Area due to activities would not affect migration. In addition, mitigation measures to shutdown at 500 m to minimize potential for Level B behavioral harassment would limit any take of the species;
- While the foraging areas south of Martha's Vineyard and Nantucket overlap with the Project Area, prey for North Atlantic right whales are mobile and broadly distributed. Therefore, North Atlantic right whales are expected to be able to resume foraging once they have moved away from any areas with disturbing noise levels, which would be temporary in nature;
- The required mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals; and
- While UMEs are in effect for some species, the take from Mayflower's activities is not expected to impact the reproduction or survival of any individuals of any species, and therefore, is not expected to impact annual rates of recruitment or survival either alone or in combination with the effects of the UMEs.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS has authorized incidental take of 14 marine mammal species. The total amount of authorized takes is less than 3 percent for all species and stocks authorized for take except for sei whales (less than 22 percent), which NMFS finds are small numbers of marine mammals relative to the estimated overall population abundances for those stocks. See Table 7. Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our planned action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources is authorizing the incidental take of four species of marine mammals which are listed under the ESA: Fin, sei, sperm, and North Atlantic right whales. We requested initiation of consultation under section 7 of the ESA with NMFS GARFO on March 5, 2021, for the issuance of this IHA. On March 5, 2021, NMFS GARFO determined our issuance of the IHA to Mayflower was not likely to adversely affect the North Atlantic right, fin, sei, and sperm whale or the critical habitat of any ESA-listed species or result in the take of any marine mammals in violation of the ESA. GARFO determined that since the issued IHA includes only a small modification to the geographic scope of the survey activities they previously consulted on and there are no additional effects to listed species anticipated that were not already considered, no additional consultation was necessary.

Authorization

NMFS has issued an IHA to Mayflower for the potential harassment of small numbers of 14 marine mammal species incidental to the conducting marine site characterization surveys offshore of Massachusetts and Rhode Island in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0521) and along a potential submarine cable routes to landfall at Falmouth, Massachusetts and Narraganset Bay, provided the previously mentioned mitigation, monitoring and reporting requirements are followed.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–15243 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB246]

Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 79 Data Scoping Webinar for Gulf of Mexico and South Atlantic mutton snapper.

SUMMARY: The SEDAR 79 assessment process of Gulf of Mexico and South Atlantic mutton snapper will consist of a Data Workshop, a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 79 Data Scoping Webinar will be held August 18, 2021, from 10 a.m. to 12 p.m., Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Data Scoping Webinar are as follows:

- Panelists will review the data sets being considered for the assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal

action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: July 14, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–15233 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB254]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee Meeting via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Friday, August 6, 2021 at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/8631941849959774222.*

ADDRESSES: *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Groundfish Committee will meet to discuss development of draft Framework Adjustment 63/ Specifications and Management Measures to set 2022 total allowable catches for US/Canada management units of Eastern Georges Bank (GB) cod and Eastern GB haddock, and 2022–23 specifications for the GB yellowtail flounder stock, set 2022–24 specifications for GB cod and Gulf of Maine (GOM) cod, and possibly adjust 2022 specifications for GB haddock and GOM haddock, adjust 2022 specifications for white hake based on the rebuilding plan, adopt additional measures to promote stock rebuilding, and develop alternatives to the current default system. The Committee will discuss 2021 Council priorities for groundfish. They will also report on and discuss the Atlantic Large Whale Take Reduction Team schedule for developing measures to reduce the risks to large whales from sink gillnet and other trap/pot fisheries. They will discuss other business, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: July 14, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–15234 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB209]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Treasure Island Ferry Dock Project, San Francisco, California

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

ACTION: Notice; withdrawal of an incidental harassment authorization application.

SUMMARY: Notice is hereby given that the City and County of San Francisco, California (San Francisco) has withdrawn its application for an incidental harassment authorization (IHA) to incidentally harass marine mammals during construction activities associated with the Treasure Island Ferry Dock Project in San Francisco, California. Accordingly, NMFS has withdrawn its related proposed IHA.

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, Ph.D., Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA) may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION: On March 10, 2021 NMFS received an IHA application from San Francisco for the taking of marine mammals incidental to the Treasure Island Ferry Dock Project in San Francisco, California. The requested IHA would have authorized take, by Level B harassment only, of seven marine mammal species as a result of the specified activity. NMFS published a notice of the proposed IHA in the **Federal Register** (86 FR 28752) on May 28, 2021. On July 13, 2021, NMFS received notice from San Francisco withdrawing their IHA application for the proposed action after they had completed all of the pile driving associated with the project and before the expiration of their prior IHA (85 FR 44043; July 21, 2020). Therefore, NMFS has withdrawn its proposed IHA for the action.

Dated: July 13, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–15244 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB244]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Southern Oregon Northern California Coast (SONCC) Coho Workgroup (Workgroup) will host an online meeting that is open to the public.

DATES: The online meeting will be held Tuesday, August 10, 2021, from 9 a.m., Pacific Daylight Time, until 5 p.m., or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Ehlke, Staff Officer, Pacific Council; telephone: (503) 820–2410.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to incorporate Pacific Council guidance from its June 2021 meeting in relevant modeling and analyses needed to update the current risk assessment and harvest control rule alternatives for Pacific Council consideration in September 2021. The Workgroup may also discuss and prepare for future Workgroup meetings and future meetings with the Pacific Council and its advisory bodies.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 business days prior to the meeting date.

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

Dated: July 14, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–15232 Filed 7–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2021–OS–0063]

Submission for OMB Review; Comment Request

AGENCY: Defense Legal Services Agency, Department of Defense (DoD).

ACTION: Information collection request.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to inform the Department's briefing to the House and Senate Committees on the Armed Services on the implementation and effect of a section of the National Defense Authorization Act (NDAA) for Fiscal Year 2018 (FY18). DoD requests emergency processing and OMB authorization to collect the information after publication of this notice for a period of six months.

DATES: Comments must be received by August 3, 2021.

ADDRESSES: The Department has requested emergency processing from OMB for this information collection request by 15 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 15-day Review—Open for Public Comments'' or by using the search function. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION: The conference report accompanying the NDAA for FY21 (H. Rept. 116–617) requested that the Secretary of Defense brief the House and Senate Committees on the Armed Services on the implementation and effect of Section 1045 of the NDAA for FY18. Specifically, the briefing should include an ''evaluation of the effects, if any, of the limitations imposed by Section 1045 [of the NDAA for FY18] on the Department's ability both to attract experienced and qualified persons to public service in the DOD and to derive benefit from communications with former senior employees and officers.'' In order to inform this portion of the briefing, the Standards of Conduct Office must collect information from former General and Flag Officer and members of the SES that are subject to the post-Government employment restrictions imposed by Section 1045 of the NDAA for FY18.

Title; Associated Form; and OMB Number: Data Call for Former General/Flag Officers and SES; OMB Control Number 0704–NDAA.

Type of Request: New.

Number of Respondents: 500.

Responses per Respondent: 1.

Annual Responses: 500.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 125.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Voluntary.

Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information collected has practical utility; (2) the accuracy of DoD's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: July 14, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–15282 Filed 7–16–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards—American History and Civics Education National Activities Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2021 for the American History and Civics Education National Activities (AHC–NA) Program, Assistance Listing Number 84.422B. This notice relates to the approved information collection under OMB 1894–0006.

DATES:

Applications Available: July 19, 2021.

Pre-Application Webinars: The Office of Elementary and Secondary Education intends to post pre-recorded informational webinars designed to provide technical assistance to interested applicants for grants under the AHC–NA program. These informational webinars will be available on the AHC–NA web page shortly after this notice is published in the **Federal Register** at *https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/effective-educator-development-programs/national-activities-grant/.*

Note: For potential grantees new or unfamiliar with grantmaking at the Department, please consult our funding basics resource at *www2.ed.gov/documents/funding-101/funding-101-basics.pdf* or a more detailed resource at *www2.ed.gov/documents/funding-101/funding-101.pdf.*

Deadline for Notice of Intent to Apply: August 18, 2021.

Deadline for Transmittal of Applications: August 18, 2021.

Deadline for Intergovernmental Review: October 4, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Christine Miller, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C152, Washington, DC 20202–5960. Telephone: (202) 260–7350. Email: *Christine.Miller@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to promote new and existing evidence-based strategies to encourage innovative American history, civics and government, and geography instruction, learning strategies, and professional development activities and programs for teachers, principals, or other school leaders, particularly such instruction, strategies, activities, and programs that benefit students from low-income backgrounds and other underserved populations.

Background: The AHC–NA Program seeks to promote evidence-based approaches that encourage innovative American history and civics education. In particular, the program seeks to promote strategies, activities, and programs that benefit students from low-income backgrounds and other underserved populations. This program is authorized under section 2233 of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

This competition includes one absolute priority, one competitive preference priority, and two invitational priorities. Consistent with section 2233 of the ESEA, the absolute priority addresses innovative instruction or professional development in American history, civics and government, and geography, and the competitive preference priority encourages applicants to propose projects that incorporate the use of hands-on civic engagement activities for teachers and students or programs that educate students about the history and principles of the U.S. Constitution, including the Bill of Rights.

The Department continues to process, review, and fully respond to the significant number of public comments received in response to the notice of proposed priorities published in the **Federal Register** on April 19, 2021 (86 FR 20348) (NPP). As a result, it is not possible to issue a notice of final priorities in time to use the priorities included in that NPP as competitive preference priorities for this FY 2021 competition. Because the Department has not yet issued final priorities, we are using these proposed priorities as invitational priorities. Consistent with the use of invitational priorities across grant competitions, applicants are not required to respond to the invitational priorities, and applications that meet invitational priorities do not receive a preference or competitive advantage over other applications.

The Department believes that teaching and learning practices that reflect the diversity, identities, histories, contributions, and experiences of all students promote academic and social-emotional development for all groups of students. To that end, Invitational Priority 1 reinforces that American history and civics education programs can play an important role in supporting teaching and learning that reflects the depth and breadth of our Nation's diverse history and the vital role of diversity in our Nation's democracy. This can be accomplished, in part, through teaching and learning environments that provide students with a full and accurate understanding of our Nation's history, expose students to a range of important civics topics and equip them with the skills needed to fully participate in civic life, enable students to see themselves and their histories in the learning experience, and empower students by developing their problem-solving and critical thinking skills.

Accordingly, Invitational Priority 1 encourages applicants to incorporate practices that reflect the diversity, identities, histories, contributions, and experiences of all students into teaching and learning and create inclusive, supportive, and identity-safe learning environments.

Invitational Priority 2 encourages applicants to foster information literacy skills, including critical thinking, and promote student engagement in civics education through professional development opportunities for teachers.

The Department fully recognizes and respects that curriculum decisions are made at the State and local levels, not by the Federal Government, and does not mandate, direct, or control curricula through this competition. Rather, the Department, through this competition, seeks to encourage efforts to implement more effective, student-centered teaching practices and professional development activities while promoting

learning practices that reflect the diversity, identities, histories, contributions, and experiences of all students to support enriched educational opportunity, equity, and success for all students.

Priorities: This notice contains one absolute priority, one competitive preference priority, and two invitational priorities. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priority is from section 2233(b)(1) of the ESEA, 20 U.S.C. 6663. The competitive preference priority is from section 2233(b)(2) of the ESEA.

Absolute Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Innovative Instruction or Professional Development in American History, Civics and Government, and Geography.

Under this priority, we provide funding to projects that are designed to develop, implement, expand, evaluate, and disseminate for voluntary use, innovative, evidence-based approaches or professional development programs in American history, civics and government, and geography. To meet this priority, a project must—

(a) Show potential to improve the quality of teaching of and student achievement in American history, civics and government, or geography, in elementary schools and secondary schools; and

(b) Demonstrate innovation, scalability, accountability, and a focus on underserved populations.

Competitive Preference Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending on how well the application meets this priority.

This priority is:

Innovative Activities for Civic Engagement. (up to 5 points)

Projects that include one or both of the following—

(a) Hands-on civic engagement activities for teachers and students; or

(b) Programs that educate students about the history and principles of the Constitution of the United States, including the Bill of Rights.

Invitational Priorities: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Projects That Incorporate Racially, Ethnically, Culturally, and Linguistically Diverse Perspectives into Teaching and Learning.

Projects that incorporate teaching and learning practices that reflect the diversity, identities, histories, contributions, and experiences of all students and create inclusive, supportive, and identity-safe learning environments that—

(a) Take into account systemic marginalization, biases, inequities, and discriminatory policy and practice in American history;

(b) Incorporate racially, ethnically, culturally, and linguistically diverse perspectives and perspectives on the experience of individuals with disabilities;

(c) Encourage students to critically analyze the diverse perspectives of historical and contemporary media and its impacts;

(d) Support the creation of learning environments that validate and reflect the diversity, identities, and experiences of all students; and

(e) Contribute to inclusive, supportive, and identity-safe learning environments.

Invitational Priority 2—Promoting Information Literacy Skills.

Projects that foster critical thinking and promote student engagement in civics education through professional development or other activities designed to support students in—

(a) Evaluating sources and evidence using standards of proof;

(b) Understanding their own biases when reviewing information, as well as uncovering and recognizing bias in primary and secondary sources;

(c) Synthesizing information into cogent communications; and

(d) Understanding how inaccurate information may be used to influence individuals, and developing strategies to recognize accurate and inaccurate information.

Definitions: The following definitions apply to this competition. The definition of ''evidence-based'' is from section 8101 of the ESEA. The definitions of ''demonstrates a rationale,'' ''experimental study,'' ''logic model,'' ''moderate evidence,'' ''project component,'' ''promising evidence,'' ''quasi-experimental design study,'' ''relevant outcome,'' ''strong evidence,'' and ''What Works Clearinghouse Handbooks'' are from 34 CFR 77.1.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Evidence-based means an activity, strategy, or intervention that—

(i) Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—

(A) Strong evidence from at least 1 well-designed and well-implemented experimental study;

(B) Moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study; or

(C) Promising evidence from at least 1 well designed and well-implemented correlational study with statistical controls for selection bias; or

(ii)(A) Demonstrates a rationale based on high quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and

(B) Includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a

student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D).

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D).

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Program Authority: Section 2233 of the ESEA, 20 U.S.C. 6663.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination

requirements contained in the Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,150,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $300,000–$500,000 per year.

Estimated Average Size of Awards: $400,000 per year.

Maximum Award: We will not make an award exceeding $500,000 to any applicant per 12-month budget period. The Department plans to fully fund awards made under this notice with FY 2021 funds.

Estimated Number of Awards: 2–3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months, with renewal of up to an additional 24 months.

III. Eligibility Information

1. *Eligible Applicants:* An institution of higher education or other nonprofit or for-profit organization with demonstrated expertise in the development of evidence-based approaches with the potential to improve the quality of American history, civics and government, or geography learning and teaching.

Note: If multiple eligible entities wish to form a consortium and jointly submit a single application, they must follow the procedures for group applications described in 34 CFR 75.127 through 34 CFR 75.129.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2.a. *Cost Sharing or Matching:* This program does not require any cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. In accordance with section 2301 of the ESEA, funds made available under this program must be used to supplement, and not supplant, other non-Federal funds that would otherwise be expended to carry out activities under this program.

c. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the AHC–NA program, your application may include business information that you consider proprietary. In 34 CFR 5.11, we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition. Please note that, under 34 CFR 79.8(a), we have shortened the standard 60-day intergovernmental review period in order to make awards by the end of FY 2021.

4. *Funding Restrictions:* We specify unallowable costs in 2 CFR 200, subpart E. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles,

headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

Furthermore, applicants are strongly encouraged to include a table of contents that specifies where each required part of the application is located.

6. *Notice of Intent to Apply:* The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department of its intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210. An applicant may earn up to a total of 100 points based on the selection criteria. The maximum score for addressing each criterion is indicated in parentheses.

(a) *Quality of the project design.* (30 points)

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project demonstrates a rationale.

(ii) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition.

(b) *Need for project.* (20 points)

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(iii) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals.

(iv) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(c) *Quality of the management plan.* (20 points)

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(d) *Quality of the project evaluation.* (30 points)

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (10 points)

(ii) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in this notice) about the project's effectiveness. (10 points)

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies. (5 points)

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings. (5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with OMB's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the

Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license must extend only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 (GPRA) performance objective for the AHC–NA Program: Participants will demonstrate through pre- and post-assessments an increased understanding of American history, civics and government, and geography.

For purposes of GPRA and Department reporting under 34 CFR 75.110, we will track performance on this objective through the following measure: The average percentage gain on an assessment after participation in the grant activities.

We advise an applicant for a grant under this program to give careful consideration to this measure in conceptualizing the approach to, and evaluation of, its proposed project. Each grantee will be required to provide, in its annual and final performance reports, data about its performance with respect to this measure.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; whether the grantee has met the required non-Federal cost share or matching requirement; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at: *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Ian Rosenblum,

Deputy Assistant Secretary for Policy and Programs Delegated the authority to perform the functions and duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2021–15365 Filed 7–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards—American History and Civics Education—Presidential and Congressional Academies for American History and Civics

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for the Presidential and Congressional Academies for American History and Civics (Academies) Program, Assistance Listing Number 84.422A. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: July 19, 2021.

Date of Pre-Application Webinars: The Office of Elementary and Secondary Education intends to post pre-recorded informational webinars designed to provide technical assistance to interested applicants for grants under the Academies Program. These informational webinars will be available to the public on the Academies Program web page within two weeks of the publication of this notice in the **Federal Register** at *https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/effective-educator-development-programs/american-history-and-civics-academies/.*

Note: For potential grantees new or unfamiliar with grantmaking at the Department, please consult our funding basics resource at *www2.ed.gov/documents/funding-101/funding-101-basics.pdf* or a more detailed resource at *www2.ed.gov/documents/funding-101/funding-101.pdf.*

Deadline for Notice of Intent to Apply: August 18, 2021.

Deadline for Transmittal of Applications: August 18, 2021.

Deadline for Intergovernmental Review: October 4, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Diana Schneider, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C152, Washington, DC 20202–5960. Telephone: (202) 401–1456. Email: *Diana.Schneider@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Academies Program supports the establishment of: (1) Presidential Academies for the Teaching of American History and Civics that offer workshops for both veteran and new teachers to strengthen their knowledge of American history, civics, and government education (Presidential Academies); and (2) Congressional Academies for Students of American History and Civics that provide high school students opportunities to enrich their understanding of these subjects (Congressional Academies).

Background: The Academies Program supports projects to raise student achievement in American history and civics by improving teachers' and students' knowledge, understanding, and engagement with these subjects through intensive workshops with scholars, master teachers, and curriculum experts. Project activities should reflect the best available research and practice in teaching and learning. This program is authorized under section 2232 of the Elementary and Secondary Act of 1965, as amended (ESEA).

This competition includes two absolute priorities, one competitive preference priority, and two invitational priorities. Consistent with section 2232 of the ESEA, the absolute priorities address professional development and instruction in American history and civics for teachers and students. The competitive preference priority, from section 2232(e)(4) of the ESEA, encourages applicants to develop programs using the resources from the National Park Service. This competitive preference priority is available only to applicants that address Absolute Priority 1.

The Department continues to process, review, and fully respond to the significant number of public comments received in response to the notice of proposed priorities published in the **Federal Register** on April 19, 2021 (86 FR 20348) (NPP). As a result, it is not possible to issue a notice of final priorities in time to use the priorities included in that NPP as competitive preference priorities for this FY 2021 competition. Because the Department has not yet issued final priorities, we are using these proposed priorities as invitational priorities. Consistent with the use of invitational priorities across grant competitions, applicants are not required to respond to the invitational priorities, and applications that meet invitational priorities do not receive a preference or competitive advantage over other applications.

The Department believes that teaching and learning practices that reflect the diversity, identities, histories, contributions, and experiences of all students promote academic and social-emotional development for all groups of students. To that end, Invitational Priority 1 reinforces that American history and civics education programs can play an important role in supporting teaching and learning that reflects the depth and breadth of our Nation's diverse history and the vital role of diversity in our Nation's democracy. This can be accomplished, in part, through teaching and learning environments that provide students with a full and accurate understanding of our Nation's history, expose students to a range of important civics topics and equip them with the skills needed to fully participate in civic life, enable students to see themselves and their histories in the learning experience, and empower students by developing their problem-solving and critical thinking skills.

Accordingly, Invitational Priority 1 encourages applicants to incorporate practices that reflect the diversity, identities, histories, contributions, and experiences of all students into teaching and learning and create inclusive, supportive, and identity-safe learning environments.

Invitational Priority 2 encourages applicants to foster information literacy skills, including critical thinking, and promote student engagement in civics education through professional development opportunities for teachers.

The Department fully recognizes and respects that curriculum decisions are made at the State and local levels, not by the Federal Government, and does not mandate, direct, or control curricula through this competition. Rather, the Department, through this competition, seeks to encourage efforts to implement more effective, student-centered teaching practices and professional development activities while promoting learning practices that reflect the diversity, identities, histories, contributions, and experiences of all students to support enriched educational opportunity, equity, and success for all students.

Priorities: This notice contains two absolute priorities, one competitive preference priority, and two invitational priorities. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priorities are from section 2232(e)(1) and (f)(1) of the ESEA, 20 U.S.C. 6662. The competitive preference priority is from section 2232(e)(4) of the ESEA.

Absolute Priorities: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet both of these priorities.

These priorities are:

Absolute Priority 1—Presidential Academies for the Teaching of American History and Civics.

Under this priority, an applicant must propose to establish a Presidential Academy that offers a seminar or institute for teachers of American history and civics, which—

(a) Provides intensive professional development opportunities for teachers of American history and civics to strengthen such teachers' knowledge of the subjects of American history and civics;

(b) Is led by a team of primary scholars and core teachers who are accomplished in the field of American history and civics;

(c) Is conducted during the summer or other appropriate time; and

(d) Is of not less than two weeks and not more than six weeks in duration.

Absolute Priority 2—Congressional Academies for Students of American History and Civics.

Under this priority, an applicant must propose to establish a seminar or institute for outstanding students of American history and civics, which—

(a) Broadens and deepens such students' understanding of American history and civics;

(b) Is led by a team of primary scholars and core teachers who are accomplished in the field of American history and civics;

(c) Is conducted during the summer or other appropriate time; and

(d) Is of not less than two weeks and not more than six weeks in duration.

Competitive Preference Priority: For applications addressing Absolute Priority 1, we give competitive preference to applications that address the following priority. For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional three points to an application, depending on how well the application meets this priority.

This priority is:

Using the Resources of the National Parks. (up to 3 points)

Applicants that propose to develop innovative and comprehensive programs using the resources of the National Parks, including, to the extent practicable, through coordination or alignment of activities with the National Park Service National Centennial Parks initiative.

Note: The Department recognizes that the National Park Service Centennial occurred in 2016, and that consequently it may not be feasible to coordinate activities with this initiative. However, applicants can address this priority by proposing to develop innovative and comprehensive programs using other resources of the National Parks.

Invitational Priorities: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Projects That Incorporate Racially, Ethnically, Culturally, and Linguistically Diverse Perspectives into Teaching and Learning.

Projects that incorporate teaching and learning practices that reflect the diversity, identities, histories, contributions, and experiences of all students and create inclusive, supportive, and identity-safe learning environments that—

(a) Take into account systemic marginalization, biases, inequities, and discriminatory policy and practice in American history;

(b) Incorporate racially, ethnically, culturally, and linguistically diverse perspectives and perspectives on the experience of individuals with disabilities;

(c) Encourage students to critically analyze the diverse perspectives of historical and contemporary media and its impacts;

(d) Support the creation of learning environments that validate and reflect the diversity, identities, and experiences of all students; and

(e) Contribute to inclusive, supportive, and identity-safe learning environments.

Invitational Priority 2—Promoting Information Literacy Skills.

Projects that describe how they will foster critical thinking and promote student engagement in civics education through professional development or other activities designed to support students in—

(a) Evaluating sources and evidence using standards of proof;

(b) Understanding their own biases when reviewing information, as well as uncovering and recognizing bias in primary and secondary sources;

(c) Synthesizing information into cogent communications; and

(d) Understanding how inaccurate information may be used to influence individuals, and developing strategies to recognize accurate and inaccurate information.

Definitions: The following definitions are from 34 CFR 77.1.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Application Requirements: The following requirements are from section 2232(e)(2), (e)(3), (f)(2), and (f)(3) of the ESEA. Applicants submitting applications under Absolute Priority 1 of this competition must meet requirements (a) and (b) listed in this section. Applicants submitting applications under Absolute Priority 2 must meet requirements (c), (d), and (e) listed in this section. Applicants submitting applications under both Absolute Priority 1 and Absolute Priority 2 must meet requirements (a), (b), (c), (d), and (e) listed in this section.

(a) *Selection of teachers.* Each year, each Presidential Academy shall select between 50 and 300 teachers of

American history and civics from public or private elementary schools and secondary schools to attend the seminar or institute.

(b) *Teacher stipends.* Each teacher selected to participate in a seminar or institute under this competition shall be awarded a fixed stipend based on the length of the seminar or institute to ensure that such teacher does not incur personal costs associated with the teacher's participation in the seminar or institute.

(c) *Selection of students.* Each year, each Congressional Academy shall select between 100 and 300 eligible students to attend the seminar or institute under this competition.

(d) *Eligible students.* A student shall be eligible to attend a seminar or institute offered by a Congressional Academy under this competition if the student—

(i) Is recommended by the student's secondary school principal or other school leader to attend the seminar or institute; and

(ii) Will be a secondary school junior or senior in the academic year following attendance at the seminar or institute.

(e) *Student stipends.* Each student selected to participate in a seminar or institute under this competition shall be awarded a fixed stipend based on the length of the seminar or institute to ensure that such student does not incur personal costs associated with the student's participation in the seminar or institute.

Program Authority: Section 2232 of the ESEA.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in the Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,700,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $300,000–$500,000 per year.

Estimated Average Size of Awards: $400,000 per year.

Estimated Number of Awards: 1.

Maximum Award: We will not make an award exceeding $500,000 to any applicant per 12-month budget period. The Department plans to fully fund awards made under this notice with FY 2021 funds.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* An institution of higher education, or nonprofit educational organization, museum, library, or research center with demonstrated expertise in historical methodology or the teaching of American history and civics; or a consortium of these entities.

In its application, an applicant must submit documentation of its organization's demonstrated expertise in historical methodology or the teaching of American history or civics.

Note: Consortium applicants must follow the procedures for group applications described in 34 CFR 75.127 through 34 CFR 75.129.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2.a. *Cost Sharing or Matching:* Under section 2232(g)(1) of the ESEA, each grant recipient must provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, which may be provided in cash or in-kind contributions, to carry out the activities supported by the grant. To meet this requirement, grantees must provide matching contributions on an annual basis relative to the amount of Academies Program funds received for a fiscal year.

Under section 2232(g)(2) of the ESEA, the Secretary may waive the matching requirement for any fiscal year for a grantee if the Secretary determines that applying the matching requirement would result in serious hardship or an inability to carry out project activities. Applicants that wish to apply for a waiver for one or more fiscal years may include a request in their application that describes how the 100 percent matching requirement would cause serious hardship or an inability to carry out project activities.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. In accordance with section 2301 of the ESEA, funds made available under this program must be used to supplement, and not supplant, other non-Federal funds that would otherwise be expended to carry out activities under this program.

c. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *https://www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education

Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Academies competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because, consistent with the process followed in the FY 2017 Academies competition, we plan to post on our website the application narrative sections of all Academies grants, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information.

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition. Please note that, under 34 CFR 79.8(a), we have shortened the standard 60-day intergovernmental review period in order to make awards by the end of FY 2021.

4. *Funding Restrictions:* We specify unallowable costs in 2 CFR 200, subpart E. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210. An applicant may earn up to a total of 100 points based on the selection criteria. The maximum score for addressing each criterion is indicated in parentheses.

(a) *Quality of the project design.* (35 points)

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project demonstrates a rationale. (20 points)

(ii) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition. (15 points)

(b) *Need for project.* (25 points)

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project. (8 points)

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (10 points)

(iii) The extent to which the services to be provided by the proposed project are focused on those with greatest needs. (7 points)

(c) *Quality of the management plan.* (20 points)

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(d) *Quality of the project evaluation.* (20 points)

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to

submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with OMB's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 (GPRA) performance objective for the Academies Program:

Participants will demonstrate through pre- and post-assessments an increased understanding of American history and civics that can be linked to their participation in the Presidential or Congressional Academy.

For purposes of GPRA and Department reporting under 34 CFR 75.110, we will track performance on this objective through the following measures:

Presidential Academies: The average percentage gain on an assessment after participation in the Presidential Academy.

Congressional Academies: The average percentage gain on an assessment after participation in the Congressional Academy.

We advise applicants for grants under this program to give careful consideration to these measures in conceptualizing the approach and evaluation of a proposed project. Each grantee will be required to provide, in its annual and final performance reports, data about its performance with respect to these measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving

the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Ian Rosenblum,

Deputy Assistant Secretary for Policy and Programs delegated the authority to perform the functions and duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2021–15364 Filed 7–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0069]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Income Driven Repayment Plan Request for the William D. Ford Federal Direct Loans and Federal Family Education Loan Programs

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 18, 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 Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Income Driven Repayment Plan Request for the William D. Ford Federal Direct Loans and Federal Family Education Loan Programs.

OMB Control Number: 1845–0102.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 6,090,000.

Total Estimated Number of Annual Burden Hours: 2,009,700.

Abstract: The Department is requesting an extension of the current information collection. The Department files this request with the same total annual number of respondents for this renewal collection as was used in the prior filing. Due to the effects of the COVID–19 pandemic and the suspension of the collection of loans, the Department lacks sufficient data to allow for more accurate updates to the usage of these forms. There has been no change in the underlying statutes or regulations which support these request forms.

Dated: July 14, 2021.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–15247 Filed 7–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0006]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Higher Education Emergency Relief Fund (HEERF) Improper Payments Information Form

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 18, 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 Karen Epps, 202–453–6337.

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: Higher Education Emergency Relief Fund (HEERF) Improper Payments Information Form.

OMB Control Number: 1840–0851.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 5,138.

Total Estimated Number of Annual Burden Hours: 5,138.

Abstract: Under the CARES Act's Higher Education Emergency Relief Fund (HEERF), the Department has made over 12,000 awards to institutions of higher education (IHEs) to support emergency financial aid to students and institutional costs associated with significant changes to the delivery of instruction due to the coronavirus. This form will be used by institutions that have improperly drawn down funds from their award accounts to provide the Department with information regarding funds being returned to correct these improper payments.

Dated: July 14, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–15248 Filed 7–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Need Analysis Methodology for the 2022–23 Award Year—Federal Pell Grant, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, William D. Ford Federal Direct Loan, Iraq and Afghanistan Service Grant, and TEACH Grant Programs

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces the annual updates to the tables used in the statutory Federal Need Analysis Methodology that determines a student's expected family contribution (EFC) for award year (AY) 2022–23 for student financial aid programs, Assistance Listing Numbers 84.063, 84.033, 84.007, 84.268, 84.408, and 84.379. The intent of this notice is to alert the financial aid community and the broader public to these required annual updates used in the determination of student aid eligibility.

FOR FURTHER INFORMATION CONTACT: Kerri Moseley-Hobbs, U.S. Department of Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202–5454. Telephone: (202) 377–3291.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Part F of title IV of the Higher Education Act of 1965, as amended (HEA), specifies the criteria, data elements, calculations, and tables the Department of Education (Department) uses in the Federal Need Analysis Methodology to determine the EFC.

Section 478 of the HEA requires the Secretary to annually update the following four tables for price inflation—the Income Protection Allowance (IPA), the Adjusted Net Worth (NW) of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates. The updates are based, in general, upon increases in the Consumer Price Index (CPI).

For AY 2022–23, the Secretary is charged with updating the IPA for parents of dependent students, adjusted NW of a business or farm, the education savings and asset protection allowance, and the assessment schedules and rates to account for inflation that took place between December 2020 and December 2021. However, because the Secretary must publish these tables before December 2021, the increases in the tables must be based on a percentage equal to the estimated percentage increase in the Consumer Price Index for All Urban Consumers (CPI–U) for 2021. The Secretary must also account for any under- or over-estimation of inflation for the preceding year.

In developing the table values for the 2021–22 AY, the Secretary assumed a 2.0 percent increase in the CPI–U for the period December 2019 through December 2020. The actual inflation for this time period was 1.2 percent. The Secretary estimates that the increase in the CPI–U for the period December 2020 through December 2021 will be 1.8 percent.

Additionally, section 601 of the College Cost Reduction and Access Act of 2007 (CCRAA, Pub. L. 110–84) amended sections 475 through 478 of the HEA affecting the IPA tables for the 2009–10 through 2012–13 AYs and required the Department to use a percentage of the estimated CPI to update the table in subsequent years. These changes to the IPA impact dependent students, as well as independent students with dependents other than a spouse and independent students without dependents other than a spouse. This notice includes the new 2022–23 AY values for the IPA tables, which reflect the CCRAA amendments. The updated tables are in sections 1 (Income Protection Allowance), 2 (Adjusted Net Worth of a Business or Farm), and 4 (Assessment Schedules and Rates) of this notice.

Under section 478(d) of the HEA, the Secretary must also revise the education

savings and asset protection allowances for each AY. The Education Savings and Asset Protection Allowance table for AY 2021–22 has been updated in section 3 of this notice.

Section 478(h) of the HEA also requires the Secretary to increase the amount specified for the employment expense allowance, adjusted for inflation. This calculation is based on increases in the Bureau of Labor Statistics' marginal costs budget for a two-worker family compared to a one-worker family. The items covered by this calculation are: Food away from home, apparel, transportation, and household furnishings and operations. The Employment Expense Allowance table for AY 2022–23 has been updated in section 5 of this notice.

Section 478(g) of the HEA directs the Secretary to update the tables for State and other taxes after reviewing the Statistics of Income file data maintained by the Internal Revenue Service. After review of the 2018 Statistics of Income data file, the Secretary has determined that for AY 2022–2023 this table will not be updated. Changes to tax law in 2018 resulted in a cap of state, local, and other taxes that can be claimed as deductions on federal income tax returns. This led to a large drop in the share of filers claiming the deduction and thus the total amount of these taxes paid, causing the Statistics of Income data file to less accurately reflect state, local, and other taxes paid in 2018. While the 2018 Statistics of Income data file shows a substantial decline in state, local, and other taxes paid as share of income, more accurate data confirms that the year-over-year change in share of income put toward state and local taxes paid as a share of income grew from 9.80 percent to 9.89 percent. Therefore, the table in section 6 of this notice has not been updated and will remain the same as AY 2021–2022.

The HEA requires the following annual updates:

1. *Income Protection Allowance.* This allowance is the amount of living expenses associated with the maintenance of an individual or family that may be offset against the family's income. The allowance varies by family size. The IPA for dependent students is $7,040. The IPAs for parents of dependent students for AY 2022–23 are as follows:

PARENTS OF DEPENDENT STUDENTS

Family size	Number in college				
	1	2	3	4	5
2	$19,630	$16,270			
3	24,440	21,100	$17,740		
4	30,190	26,830	23,490	$20,130	
5	35,620	32,260	28,920	25,560	$22,220
6	41,670	38,310	34,970	31,610	28,270

For each additional family member add $4,700. For each additional college student subtract $3,340.

The IPAs for independent students with dependents other than a spouse for AY 2022–23 are as follows:

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

Family size	Number in college				
	1	2	3	4	5
2	$27,720	$22,980			
3	34,520	29,800	$25,060		
4	42,620	37,900	33,180	$28,430	
5	50,300	45,550	40,830	36,100	$31,380
6	58,820	54,090	49,380	44,620	39,910

For each additional family member add $6,640. For each additional college student subtract $4,720.

The IPAs for single independent students and independent students without dependents other than a spouse for AY 2022–23 are as follows:

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN SPOUSE

Marital status	Number in college	
	1	2
Single	$10,950	
Married	17,550	$10,950

2. *Adjusted Net Worth of a Business or Farm.* A portion of the full NW (assets less debts) of a business or farm is excluded from the calculation of an EFC because (1) the income produced from these assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets.

The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students,

independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the NW of a business or farm is	Then the adjusted NW is
Less than $1	$0.
$1 to $140,000	$0 + 40% of NW.
$140,001 to $420,000	$56,000 + 50% of NW over $140,000.
$420,001 to $700,000	$196,500 + 60% of NW over $420,000.
$700,001 or more	$364,000 + 100% of NW over $700,000.

3. *Education Savings and Asset Protection Allowance.* This allowance protects a portion of NW (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables: One for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS, AND INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE, AND INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the older parent is, or If the age of the independent student is	And the older parent or the independent student is	
	Married	Single
	Then the allowance is	
25 or less	0	0
26	200	0
27	400	0
28	600	0
29	800	0
30	1,000	0
31	1,200	0
32	1,400	0
33	1,700	0
34	1,900	0
35	2,100	0
36	2,300	0
37	2,500	0
38	2,700	0
39	2,900	0
40	3,100	0
41	3,200	0
42	3,200	0
43	3,300	0
44	3,400	0
45	3,500	0
46	3,600	0
47	3,700	0
48	3,700	0
49	3,800	0
50	3,900	0
51	4,000	0
52	4,100	0
53	4,200	0
54	4,400	0
55	4,500	0
56	4,600	0
57	4,700	0
58	4,900	0
59	5,000	0
60	5,100	0
61	5,300	0
62	5,400	0
63	5,600	0
64	5,800	0
65 or older	5,900	0

4. *Assessment Schedules and Rates.* Two schedules that are subject to updates—one for parents of dependent students and one for independent students with dependents other than a spouse—are used to determine the EFC from family financial resources that contribute to educational expenses. For dependent students, the EFC is derived

from an assessment of the parents' adjusted available income (AAI). For independent students with dependents other than a spouse, the EFC is derived from an assessment of the family's AAI. The AAI represents a measure of a family's financial strength, which considers both income and assets.

The contribution of parents of dependent students, and independent students with dependents other than a spouse, is computed according to the following schedule:

If AAI is	Then the contribution is
Less than −$3,409	−$750.
−$3,409 to $17,500	22% of AAI.
$17,501 to $22,000	$3,850 + 25% of AAI over $17,500.
$22,001 to $26,500	$4,975 + 29% of AAI over $22,000.
$26,501 to $31,000	$6,280 + 34% of AAI over $26,500.
$30,001 to $35,500	$7,810 + 40% of AAI over $31,000.
$35,501 or more	$9,610 + 47% of AAI over $35,500.

5. *Employment Expense Allowance.* This allowance for employment-related expenses—which is used for the parents of dependent students and for married independent students—recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based on the marginal differences in costs for a two-worker family compared to a one-worker family. The items covered by these additional expenses are: Food away from home, apparel, transportation, and household furnishings and operations.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $4,000 or 35 percent of earned income.

6. *Allowance for State and Other Taxes.* The allowance for State and other taxes protects a portion of parents' and students' incomes from being considered available for postsecondary educational expenses. There are four categories for State and other taxes, one each for parents of dependent students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse.

PERCENT OF INCOME PAID IN STATE TAXES BY STATE, DEPENDENCY STATUS, AND INCOME LEVEL

State	Parents of dependent students and independent students with dependents other than a spouse		Dependent students and independent students without dependents other than a spouse
	Income under $15,000	Income $15,000 & up	All income
Alabama	3	2	2
Alaska	2	1	0
Arizona	4	3	2
Arkansas	4	3	3
California	9	8	6
Colorado	4	3	3
Connecticut	9	8	5
Delaware	5	4	3
District of Columbia	7	6	6
Florida	3	2	1
Georgia	5	4	4
Hawaii	5	4	4
Idaho	5	4	4
Illinois	6	5	3
Indiana	4	3	3
Iowa	5	4	3
Kansas	4	3	3
Kentucky	5	4	4
Louisana	3	2	2
Maine	6	5	3
Maryland	8	7	6
Massachussets	7	6	4
Michigan	5	4	3
Minnesota	7	6	5
Mississippi	3	2	2
Missouri	5	4	3
Montana	5	4	3
Nebraska	5	4	3
Nevada	3	2	1
New Hampshire	4	3	1
New Jersey	9	8	5
New Mexico	3	2	2

PERCENT OF INCOME PAID IN STATE TAXES BY STATE, DEPENDENCY STATUS, AND INCOME LEVEL—Continued

State	Parents of dependent students and independent students with dependents other than a spouse		Dependent students and independent students without dependents other than a spouse
	Income under $15,000	Income $15,000 & up	All income
New York	10	9	7
North Carolina	5	4	3
North Dakota	2	1	1
Ohio	5	4	3
Oklahoma	3	2	2
Oregon	7	6	5
Pennsylvania	5	4	3
Rhode Island	6	5	4
South Carolina	4	3	3
South Dakota	2	1	1
Tennessee	2	1	1
Texas	3	2	1
Utah	5	4	4
Vermont	6	5	3
Virginia	6	5	4
Washington	3	2	1
West Virginia	3	2	3
Wisconsin	6	5	4
Wyoming	2	1	1
Other	2	1	1

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, Braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1087rr.

Richard Cordray,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 2021–15217 Filed 7–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0072]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Maintenance-of-Effort Requirements and Waiver Requests Under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 18, 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 Britt Jung, (202) 453–6046.

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: Maintenance-of-Effort Requirements and Waiver Requests under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund.

OMB Control Number: 1810–0745.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 81.

Total Estimated Number of Annual Burden Hours: 358.

Abstract: This is a request for an extension without change of an existing information collection, 1810–0745. In recognition of the immense challenges facing students, educators, staff, schools, LEAs, and SEAs right now, Congress has made additional ESSER and GEER funds available to SEAs and LEAs to prevent, prepare for, and respond to COVID–19 through the CRRSA Act and, most recently and significantly, the ARP Act. It is critical that States and Governors receive clear guidance on the MOE requirements under the CRRSA Act and the ARP Act to inform their spending decisions and implementation plans for the GEER and ESSER programs as SEAs and LEAs prepare to help schools return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID–19 pandemic. This guidance and the associated collection provide States and Governors clear guidance they need to fully implement their GEER and ESSER programs. States and Governors have delayed distributing and spending funds due to the absence of guidance on the process for requesting waivers of MOE. Additionally, the Department will not be able to properly monitor GEER and ESSER recipients or provide technical assistance without collecting the MOE data and, when requested by States, grant MOE waiver requests.

Dated: July 14, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–15283 Filed 7–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0106]

Agency Information Collection Activities; Comment Request; Application for the Educational Flexibility (Ed-Flex) Program

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before September 17, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0106. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208C Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Christopher Fenton, (202) 453–5515.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for the Educational Flexibility (Ed-Flex) Program.

OMB Control Number: 1810–0737.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 40.

Total Estimated Number of Annual Burden Hours: 1,600.

Abstract: The Educational Flexibility (Ed-Flex) program is authorized under the Education Flexibility Partnership Act of 1999 and was reauthorized by section 9207 of the Every Student Succeeds Act (ESSA). The Ed-Flex program allows the Secretary to authorize a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more the included programs for any local educational agency (LEAs), educational service agency, or school within the State. This information collection includes data reporting requirements that States must follow as part of the process of applying to be designated an Ed-Flex Partnership State.

Dated: July 14, 2021.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–15245 Filed 7–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–469–000]

CenterPoint Energy Resources Corp.; Summit Utilities Arkansas, Inc.; Notice of Application and Establishing Intervention Deadline

Take notice that on June 28, 2021, CenterPoint Energy Resources Corporation (CERC), 1005 Congress Avenue, Suite 650, Austin, Texas 78701, and Summit Utilities Arkansas, Inc. (Summit Arkansas), 10825 E. Geddes Ave., Suite 410, Centennial, Colorado 80112, filed in Docket No. CP21–469–000 an abbreviated application under section 7(f) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations, requesting that the Commission: (i) Amend the service area determination granted in docket number CP19–111–000 [1] on July 10, 2019 to remove certain service areas, as CERC will no longer have cross-border service areas in these locations; and (ii) transfer one service area currently authorized in the order referenced above to Summit Arkansas so that Summit Arkansas will succeed to a service area within which Summit Arkansas may, without further Commission authorization own and operate certain facilities that provide natural gas distribution service across state lines. Summit Arkansas requests the service area determination with respect to a limited geographic area at the border between Arkansas and Texas in which Summit Arkansas will provide natural gas distribution service across state lines. Summit Arkansas also requests a finding that Summit Arkansas qualifies for treatment as a local distribution company for purposes of transportation under section 311 of the Natural Gas Policy Act of 1978 (NGPA), and a waiver of the Commission's accounting, reporting, and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and the NGPA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this filing may be directed to Hallie Flint Gilman, Chief Legal Officer Summit Utilities, 10825 E Geddes Ave., Suite 410, Centennial, CO 80112, by phone at (207) 781–1200 ext. 1428, or by email at *hgilman@summitutilities.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[2] within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are two ways to become involved in the Commission's review of this project: You can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on August 2, 2021.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before August 2, 2021.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number CP21–469–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address below.[3] Your written comments must reference the Project docket number (CP21–469–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the

[1] *CenterPoint Energy Res. Corp.,* 168 FERC ¶ 62,011 (2019).

[2] 18 CFR (Code of Federal Regulations) 157.9.

[3] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[4] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is August 2, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as the your interest in the proceeding. [For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene.] For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP21–469–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf*; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below.[7] Your motion to intervene must reference the Project docket number CP21–469–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Motions to intervene must be served on the applicant either by mail or email at: Gulf States Transmission LLC, 1300 Main Street, Houston, Texas 77002; or at *blair.lichtenwalter@energytransfer.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed [8] motions to intervene are automatically granted by operation of Rule 214(c)(1).[9] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[10] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on Monday, August 2, 2021.

Dated: July 12, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–15179 Filed 7–16–21; 8:45 am]

BILLING CODE 6717–01–P

[4] 18 CFR 385.102(d).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

[7] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[8] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[9] 18 CFR 385.214(c)(1).

[10] 18 CFR 385.214(b)(3) and (d).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2021–0404; FRL–8740–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (''CAA'' or the ''Act''), the United States Environmental Protection Agency (''EPA'') gives notice of a proposed consent decree in *Environmental Integrity Project* v. *Regan,* No. 1:21–cv–00009 (D.D.C.). In this litigation, Environmental Integrity Project (''EIP'') alleged that the Administrator of EPA failed to perform certain non-discretionary duties to timely respond to petitions asking EPA to object to eight operating permits issued by the Texas Commission on Environmental Quality (''TCEQ''). The proposed consent decree would establish deadlines for EPA to take action in response to these petitions. The proposed consent decree does not require EPA to take any specific, particular action in response to the petitions.

DATES: Written comments on the proposed consent decree must be received by *August 18, 2021.*

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2021–0404, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for

this action. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT:

Charles Starrs, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 564–1996; email address: *starrs.charles@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2021–0404) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would fully resolve a lawsuit filed by EIP, Sierra Club, Port Arthur Community Action Network, Environment Texas, and Neta Rhyne (the ''Plaintiffs'') seeking to compel the Administrator to take action, in accordance with CAA section 505(b)(2), 42 U.S.C. 7661d(b)(2), to respond to eight petitions. The lawsuit, *Environmental Integrity Project* v. *Regan,* No. 1:21–cv–00009, was filed in the United States District Court for the District of Columbia on January 4, 2021.

In this action, the Plaintiffs allege that TCEQ issued, at various times under Title V of the CAA (42 U.S.C. 7661–7661f), operating permits to eight facilities located in Texas: The ETC Texas Pipeline Ltd.'s Waha Gas Plant (located in Pecos County); Premcor Refining Group Inc.'s Port Arthur Refinery (located in Jefferson County); Sandy Creek Services, LLC's Sandy Creek Energy Station (located in McLennan County); Phillips 66's Borger Refinery (located in Hutchinson County); Kinder Morgan Crude & Condensate LLC's Galena Park Facility (located in Galena Park, Harris County); Oak Grove Management Company's Oak Grove Steam Electric (located in Robertson County); BP Amoco Chemical Company's Texas City Chemical Plant (located in Galveston County); and Blanchard Refining Company LLC's Galveston Bay Refinery (located in Galveston County). The Plaintiffs also allege that they submitted to EPA petitions asking EPA to object to the eight operating permits issued by TCEQ and that EPA has failed to meet its nondiscretionary duty to timely respond to those petitions.

Under the terms of the proposed consent decree, EPA shall, in accordance with a stated schedule, sign responses to the eight petitions at issue in the litigation. The schedule requires EPA to sign responses to: Three of the eight petitions by August 31, 2021; an additional one of the petitions by September 30, 2021; an additional one of the petitions by October 31, 2021; an additional one of the petitions by November 30, 2021; an additional one of the petitions by December 31, 2021; and an additional one of the petitions by January 31, 2022. In accordance with that schedule, EPA will respond to all the petitions not later than January 31, 2022. EPA retains discretion to determine the order of its petition responses or which petition response is made by which date. Although the proposed consent decree requires EPA action in accordance with a schedule, it does not dictate the substance or specific nature of EPA's responses to the petitions. The proposed consent decree also requires that, as EPA responds to the petitions, EPA shall send notice of the response to the Office of the Federal Register for publication in the **Federal Register**. See the proposed consent decree in the docket for other terms and conditions.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2021–0404, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your

name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2021–15240 Filed 7–16–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0599; FRL–8194–02–OAR]

Notice of Final Approval for an Alternative Means of Emission Limitation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; final approval.

SUMMARY: This action announces the Environmental Protection Agency (EPA) approval of the request by Rohm and Haas Chemicals LLC, a subsidiary of The Rohm and Haas Chemical Company (Rohm and Haas), under the Clean Air Act (CAA) for an alternative means of emission limitation (AMEL) for the Standards of Performance for Volatile Organic Liquid Storage Vessels. The AMEL applies to a proposed new vinyl acetate bulk storage tank to be used at its chemical plant in Kankakee, Illinois. The EPA received no adverse comments on the request. This approval document specifies the operating conditions and monitoring, recordkeeping, and reporting requirements that this facility must follow to demonstrate compliance with the approved AMEL.

DATES: The approval of the AMEL request from Rohm and Haas to operate its storage tank in Kankakee, Illinois, as specified in this document, is effective on July 19, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0599. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/.*

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.* The EPA continues to carefully and continuously monitor information from the Center for Disease Control, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Ms. Angie Carey, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2187; fax number: (919) 541–0516; and email address: *carey.angela@epa.gov.*

SUPPLEMENTARY INFORMATION: *Preamble acronyms and abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AMEL alternative means of emission limitation
CAA Clean Air Act
CFR Code of Federal Regulations
EPA Environmental Protection Agency
HAP hazardous air pollutant(s)
NESHAP national emission standards for hazardous air pollutants
NSPS new source performance standards
OAQPS Office of Air Quality Planning and Standards
PRD pressure relief device
PRV pressure relief valve
VAM vinyl acetate monomer
VOC volatile organic compound(s)

Organization of this document. The information in this document is organized as follows:

I. Background
II. Summary of Public Comments on the AMEL Request
III. AMEL for the Storage Tank

I. Background

On February 8, 2021, the EPA provided public notice and solicited comment on the request under section 111(h)(3) of the CAA by Rohm and Haas for an alternative means of emission limitation (AMEL) for the Standards of Performance for Volatile Organic Liquid Storage Vessels, 40 CFR part 60 subpart Kb, 40 CFR 60.112b, that would apply to a proposed new vinyl acetate bulk storage tank to be used at its chemical plant in Kankakee, Illinois (see 86 FR 8618). The volatile organic compound (VOC) standards at 40 CFR 60.112b were established as work practice standards pursuant to CAA section 111(h)(1). For standards established according to that provision, CAA section 111(h)(3) allows the EPA to permit the use of an AMEL by a source if, after notice and opportunity for public hearing, it is established to the Administrator's satisfaction that such AMEL will achieve emissions reductions at least equivalent to the reductions required under the applicable CAA section 111(h)(1) standards. NSPS subpart Kb also includes specific regulatory provisions (*i.e.,* 40 CFR 114b) allowing sources to request an AMEL for the VOC standards at 40 CFR 60.112b.

In the initial notice, the EPA solicited comment on all aspects of the AMEL request, including the operating conditions specified in that document that are necessary to achieve a reduction in emissions of volatile organic compounds at least equivalent to the reductions required by 40 CFR 60.112b. Rohm and Haas intends to replace the existing vinyl acetate monomer (VAM) (CAS 108–05–4) tank (TK–72) with the proposed bulk storage tank.

Rohm and Haas included in its AMEL application information to demonstrate that the proposed bulk storage tank, through its vapor balancing system and

pressure containment design, will achieve a reduction in emissions at least equivalent to the reduction in emissions achieved by the VOC standards at 40 CFR 60.112b. Rohm and Haas's AMEL request was submitted on June 17, 2020. For Rohm and Haas's AMEL request, including any supporting materials Rohm and Haas submitted, see Docket ID No. EPA–HQ–OAR–2020–0599.

This action finalizes our approval of this AMEL request. Section II summarizes the comments received on the request and our responses thereto. Section III sets forth the final operating conditions EPA has established for the proposed bulk storage tank as part of this AMEL approval.

II. Summary of Public Comments on the AMEL Request

The Agency received comments from only one commenter (Rohm and Haas) on this action. The comments pertain to the operating conditions for assuring equivalency that were specified section III of the initial notice. The comments and our response thereto are summarized below.

A. Comment on Paragraph (3)—EPA Method 21 Monitoring Requirements

Paragraph 3 of the operating conditions in the initial notice stated that at the Rohm and Haas facility, each of the PRDs and components of the vapor collection system on the tank must be monitored on a quarterly basis, using EPA Method 21, and that an instrument reading of 500 parts-per-million by volume or greater is an excess emission event.

Rohm and Haas requests that EPA classify an instrument reading of ≥500 ppmv as a leak instead of an excess emission event, thereby following the National Emission Standards for Organic Hazardous Air Pollutants (NESHAP) from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, 40 CFR part 63, subpart G. As mentioned in the initial notice, in support of its AMEL request, Rohm and Haas stated that the proposed tank would comply with the vapor balancing requirements in NESHAP subpart G, 40 CFR 63.119(g) to confirm proper vapor balancing. See 86 FR 8618 (February 8, 2021). 40 CFR 63.119(g)(5) identifies an instrument reading of ≥500 ppmv as a leak, which triggers a requirement to repair as soon as practicable but no later than 5 days after detection. Rohm and Haas states in its comment that this change would be consistent with 40 CFR 63.119(g).

The Agency declines to adopt this suggested revision for the following reason. The EPA equivalency determination is based on the closed vent system being closed and not leaking under any circumstances. To ensure equivalency, the Agency is requiring that no detectable emissions occur from PRDs and components of the vapor collection system on the tank; accordingly, any leak would be an excess emission. Therefore, the EPA has not made the change requested by the commenter.

B. Comment on Paragraph (4)—Clarification on Welded Steel Piping

Rohm and Haas's second comment requests clarification on paragraph 4 of the operating conditions in the initial document, specifically the requirement that ''VAM must be transferred from either railcars or truck trailers via welded steel piping into the new bulk storage tank. The tank must be equipped with a welded steel vapor balance line that returns displaced vinyl acetate vapors from the headspace within the tank to the railcar or tank truck during tank filling operations.''

Rohm and Haas states that they intend for the piping to be welded steel piping but notes that there will be a minimal number of necessary flanged connections, flanged valves, and flexible coupling lines for the unloading line and for the vapor balance line. The Agency does not believe, and Rohm and Hass do not claim, that the operating conditions in paragraph 4 cannot be met or otherwise need to be changed because of the presence of these flanged connections, flanged valves, and flexible coupling lines. The EPA is therefore finalizing the requirements in paragraph 4 as specified in the initial notice, and we are adding a statement in the paragraph acknowledging that ''there will be a number of necessary flanged connections, flanged valves, and flexible coupling lines as part of the vapor balance line.''

C. Comment on Paragraph (6)—Recordkeeping Requirements

Rohm and Haas's next comment is on paragraph 6 of the operating conditions in the initial notice, which states that, ''The facility must keep a record of the equipment to be used and the procedures to be followed when reloading the railcar, tank truck, or barge and displacing vapors the storage tank from which the liquid originates, as well as a record of all components of the PRDs, including PRVs and rupture discs.''

Rohm and Haas's comment identifies certain inaccuracies in paragraph 6 in the initial notice. For example, the statement incorrectly uses the term ''reloading'' in describing the operation of *unloading* vinyl acetate from a railcar or tank truck. Rohm and Haas also suggest removing the reference to a barge because it is not possible to unload a barge at this facility. In light of the above, we accept Rohm and Haas's suggestion to revise the statement to read as follows: ''The facility must keep a record of the equipment to be used and the procedures to be followed when unloading the railcar or tank truck and displacing vapors from the storage tank to the transport vessel from which the liquid originates, as well as a record of all components of the PRDs, including PRVs and rupture discs.''

C. Comments on Paragraph (7)—Reporting Requirements

Rohm and Haas suggest, and the Agency accepts, minor wording changes to paragraph 7(a) of the operating conditions in the initial notice.

Rohm and Haas also suggests several edits to paragraph 7(b), which requires the facility to report ''The date and time identifying each period during which the continuous monitoring systems were inoperative except for zero and span checks and the nature of the system repairs or adjustments.'' Rohm and Haas requests adding the terms ''pressure'' and ''other required maintenance'' such that the requirement would read as follows: ''The date and time identifying each period during which the continuous pressure monitoring systems were inoperative except for zero and span checks or other required maintenance and the nature of the system repairs or adjustments.'' The Agency disagrees with adding the term ''other required maintenance'' because it is important to include reporting of downtime in monitoring to understand system upsets, and adding the term ''other required maintenance'' would limit reporting to only periods of required maintenance, thus excluding downtime. However, the Agency does agree with the change to add the term ''pressure'' to specifically refer to the ''continuous pressure monitoring system.'' This edit accurately reflects paragraph 2 of the operating conditions below and in the initial notice to only require pressure to be monitored.

Lastly, Rohm and Haas suggests adding ''in this section'' to Paragraph 7(d) so that it reads: ''When the continuous pressure monitoring systems have not been inoperative, repaired, or adjusted, such information shall be stated in this section of the report.'' The Agency interprets the comment to request that the information required in paragraph 7(d) be reported in the storage tank section of semiannual compliance

reports for this facility. The Agency does not object to making this addition.

III. AMEL for the Storage Tank

The EPA is approving the AMEL request by Rohm and Haas. Based upon our review of the AMEL request, the Agency believes that, by complying with the operating conditions specified in the following paragraphs, the proposed new tank at the Rohm and Haas Chemicals LLC facility will achieve emission reductions at least equivalent to reduction in emissions required by NSPS subpart Kb, 40 CFR 60.112b:

(1) No PRD on the storage tank, or on the railcar or tank truck, shall open during loading or as a result of diurnal temperature changes (breathing losses).

(2) Both PRDs on the storage tank must be set to release at no less than 9 psig at all times. Any release from a PRD as indicated by pressure reading greater than 9 psig is an excess emissions event. To demonstrate that the PRD does not open, the tank vapor space pressure and the space between the rupture disk and PRD will be continuously monitored for pressure and recorded. If a release occurs, the tank must follow 40 CFR 63.165(d)(2).

(3) Each of the PRDs and components of the vapor collection system on the tank must be monitored on a quarterly basis, using EPA Method 21. An instrument reading of 500 parts per million by volume or greater is an excess emissions event.

(4) VAM must be transferred from either railcars or truck trailers via welded steel piping into the new bulk storage tank. The tank must be equipped with a welded steel vapor balance line that returns displaced vinyl acetate vapors from the headspace within the tank to the railcar or tank truck during tank filling operations. The vapor balance line must be hard piped from the tank, crossing a pipe bridge, before terminating at the off-loading station. While there are a number of necessary flanged connections, flanged valves, and flexible coupling lines as part of the vapor balance line, the tank vapor balance line must not contain any PRDs or release points. Displaced vapors must be transferred to a vapor return fitting on the offloading bulk vehicle through a hose from the offloading station. Both the transfer hoses and the vapor balance return line must incorporate dry-disconnect fittings to prevent vapor discharge to the atmosphere when the line is not connected. Tank trucks and railcars must have a current certification in accordance with the DOT pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars. Railcars or tank trucks that deliver VAM to a storage tank must be reloaded or cleaned at a facility that utilizes the control techniques specified in paragraph (4)(a) or (b).

(a) The railcar or tank truck must be connected to a closed-vent system with a control device that reduces inlet emissions of VAM by 95 percent by weight or greater.

(b) A vapor balancing system designed and operated to collect organic VAM vapor displaced from the tank truck or railcar during reloading must be used to route the collected HAP vapor to the storage tank from which the liquid being transferred originated.

(5) Rohm and Haas must submit to the Administrator a written certification that the reloading or cleaning facility meets the requirements of paragraph 4; and the requirements for closed vent system and control device specified at 40 CFR 63.119 through 63.123. The notification and reporting requirements at 40 CFR 63.122 do not apply to the owner or operator of the offsite cleaning or reloading facility.

(6) Recordkeeping requirements.

(a) The facility must keep a record of the equipment to be used and the procedures to be followed when unloading the railcar or tank truck and displacing vapors from the storage tank to the transport vessel from which the liquid originates, as well as a record of all components of the PRDs, including PRVs and rupture discs.

(b) Records must be kept as long as the storage vessel is in operation.

(7) Reporting requirements. The facility must submit excess emissions and monitoring systems performance reports to the Administrator semiannually. All reports must be postmarked by the 30th day following the end of each 6-month period. Written reports of excess emissions must include the following information:

(a) The date and time of commencement and completion of each time period of excess emissions and the process operating time during the reporting period.

(b) The date and time identifying each period during which the continuous pressure monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

(c) The report must include a list of the affected sources or equipment, an estimate of the volume of VAM emitted, and a description of the method used to estimate the emissions.

(d) When the continuous pressure monitoring systems have not been inoperative, repaired, or adjusted, such information shall be stated in this section of the report.

Dated: July 13, 2021.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2021–15321 Filed 7–16–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 8718–01–R5]

Public Water System Supervision Program Approval for the State of Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has tentatively approved the State of Wisconsin's revisions to the State's Public Water System Supervision (PWSS) Program under the federal Safe Drinking Water Act (SDWA) for adoption of the federal Ground Water Rule, as well as revisions to the federal Surface Water Treatment Rule under the Long Term 2 Enhanced Surface Water Treatment Rule. The EPA has determined that the State's PWSS program regulations and the revisions thereto are no less stringent than the corresponding federal regulations for the Ground Water Rule and the Long Term 2 Enhanced Surface Water Treatment Rule. Therefore, the EPA intends to approve this revision to the State of Wisconsin's Public Water System Supervision Program, thereby giving the Wisconsin Department of Natural Resources primary enforcement responsibility for the Ground Water Rule and the Long Term 2 Enhanced Surface Water Treatment Rule. This approval action does not extend to public water systems in Indian Country. By approving this revision, the EPA does not intend to affect the rights of federally recognized Indian Tribes in Wisconsin, nor does it intend to limit existing rights of the State of Wisconsin.

DATES: Any interested party may request a public hearing on this determination. A request for a public hearing must be submitted by August 18, 2021. The EPA Region 5 Administrator may deny frivolous or insubstantial requests for a hearing. If a substantial request for a public hearing is made by August 18, 2021, EPA Region 5 will hold a public hearing, and a notice of such hearing will be published in the **Federal Register** and a newspaper of general

circulation. Any request for a public hearing shall include the following information: The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination; a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 5 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing upon her own motion, this determination shall become final and effective on August 18, 2021 and no further public notice will be issued.

ADDRESSES: To receive copies of documents related to this determination, please contact Victoria Heath at *Heath.Victoria@epa.gov* or 312–886–0703. Documents relating to this determination are available for inspection at the following locations: Wisconsin Department of Natural Resources, Public Water Supply Section, 101 S Webster St., Madison, WI 53707–7921; and the U.S. Environmental Protection Agency Region 5, Ground Water and Drinking Water Branch (WG–15J), 77 W Jackson Blvd., Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Victoria Heath, EPA Region 5, Ground Water and Drinking Water Branch, at the address given above, by telephone at 312–886–0703, or at *Heath.Victoria@epa.gov*.

Authority:

Section 1413 of the Safe Drinking Water Act, 42 U.S.C. 300g–2, and the federal regulations implementing Section 1413 of the Act set forth at 40 CFR part 142.

Dated: July 13, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2021–15184 Filed 7–16–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX, 3060–1286; FRS 38003]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 17, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Private Entity Robocall and Spoofing Information Submission Portal, FCC Form 5642.

Form Number: FCC Form 5642.

Type of Review: New collection.

Respondents: Business or other for-profit entities, and non-profit organizations.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in the TRACED Act section 10(a).

Total Annual Burden: 50 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Assurances of confidentiality will be provided to the respondents; however, respondents will be made aware that their submissions may be shared with the Department of Justice, Federal Trade Commission, other federal agencies combatting robocalls, state attorney general offices, other law enforcement entities with which the Commission has information sharing agreements, and the registered traceback consortium.

Needs and Uses: Section 10(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) directs the Commission to establish regulations to create a process that ''streamlines the ways in which a private entity may voluntarily share with the Commission information relating to'' a call or text message that violates prohibitions regarding robocalls or spoofing set forth section 227(b) and 227(e) of the Communications Act of 1934, as amended. On June 17, 2021, the Commission adopted a *Report and Order* to implement section 10(a) by creating an online portal located on the Commission's website where private entities may submit information about robocall and spoofing violations. The Enforcement Bureau (Bureau) will manage this portal.

A private entity is any entity other than (1) an individual natural person or (2) a public entity. A public entity is any governmental organization at the federal, state, or local level. Thus, the portal is not intended for individual consumers who already have a mechanism to submit robocall or spoofing complaints via the Commission's informal complaint process.

The portal will request private entities to submit certain minimum information including, but not necessarily limited to, the name of the reporting private entity, contact information, including at least one individual name and means of contacting the entity (*e.g.,* a phone number), the caller ID information displayed, the phone number(s) called, the date(s) and time(s) of the relevant calls or texts, the name of the reporting private entity's service provider, and a

description of the problematic calls or texts.

Although the portal will not reject submissions that fail to include the above information, such failure will make it more difficult for the Bureau to investigate fully and take appropriate enforcement action. Once submitted, the Bureau will review to determine whether the information presents evidence of a violation of the Commission's rules. The Bureau may share submitted information with the Department of Justice, Federal Trade Commission, other federal agencies combatting robocalls, state attorney general offices, other law enforcement entities with which the Commission has information sharing agreements, and the registered traceback consortium.

OMB Control Number: 3060–1286.

Title: Emergency Connectivity Fund Program.

Form Number: FCC Forms 471, 472, 474, and 500.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, state, local or tribal government institutions, and other not-for-profit institutions.

Number of Respondents and Responses: 23,000 respondents; 132,100 responses.

Estimated Time per Response: 4.5 hours for FCC Form 471 (4 hours for response; 0.5 hours for recordkeeping); 1.5 hours for FCC Forms 472/474 (1 hour for response; 0.5 hours for recordkeeping); 1.5 hours for Emergency Connectivity Fund Post-Commitment Change Request (streamlines collection based on the FCC Form 500 and FCC Form 471 for use in the Emergency Connectivity Fund Program) (1 hour for response; 0.5 hours for recordkeeping)).

Frequency of Response: On occasion and annual reporting requirements; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in in sections 1, 4(i), 4(j), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403 and 405 and section 7402 of the American Rescue Plan Act, Pub. L. 117–2, 135 Stat. 4.

Total Annual Burden: 315,450 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no assurance of confidentiality provided to applicants and service providers concerning this information collection. However, applicants and service providers may request materials or information submitted to the Commission or to USAC be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

Needs and Uses: The requirements contained herein are necessary to implement and administer the Congressional mandate for the Emergency Connectivity Fund. The information collected herein provides the Commission and USAC with the necessary information to administer the Emergency Connectivity Fund Program, determine the amount of support entities seeking funding are eligible to receive, determine if entities are complying with the Commission's rules, and to prevent waste, fraud, and abuse. The information will also allow the Commission to evaluate the extent to which the Emergency Connectivity Fund is meeting the statutory objectives specified in section 7402 of the American Rescue Plan Act, the Commission's performance goals set forth in the *Emergency Connectivity Fund Report and Order,* and to evaluate the need for and feasibility of any future revisions to program rules. The name, address, DUNS number and business type will be disclosed in accordance with the Federal Funding Accountability and Transparency Act/Digital Accountability and Transparency Act (FFATA/DATA Act) reporting requirements. Emergency Connectivity Fund Program application, commitment, and disbursement data will also be publicly available.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–15204 Filed 7–16–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0384; FR ID 38021]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before September 17, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0384.

Title: Sections 64.901, 64.904 and 64.905, Auditor's Attestation and Certification.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1 respondent, 1 response.

Estimated Time per Response: 5–250 hours.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority is contained in Sections 1, 4, 201–205, 215, and 218–220 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154, 201–205, 215, and 218–220.

Frequency of Response: On-occasion, biennial, and annual reporting requirements.

Total Annual Burden: 255 hours.

Total Annual Cost: $1,200,000.

Privacy Act Impact Assessment: No impact(s).

Nature of Extent of Confidentiality: This collection does not address information of a confidential nature.

Needs and Uses: Section 64.904(a) states that each incumbent LEC required to file a cost allocation manual shall elect to either have an attest engagement performed by an independent auditor every two years, covering the prior two year period, or have a financial audit performed by an independent auditor biennially. In either case, the initial engagement shall be performed in the calendar year after the carrier is first required to file a cost allocation manual. See Section 64.904(a)–(c). Instead of requiring mid-sized carriers to incur the expense of a biennial attestation engagement, they now file a certification with the Commission stating that they are in compliance with 47 CFR 64.901 of the Commission's rules, which sets out the rules regarding allocation of costs. The certification must be signed, under oath, by an officer of the incumbent LEC, and filed with the Commission on an annual basis. Such certification of compliance represents a less costly means of enforcing compliance with our cost allocation rules. See 47 CFR 64.905 of the Commission's rules. The requirements are imposed to ensure that the carriers are properly complying with Commission rules. They serve as an important aid in the Commission's monitoring program. Section 64.905 requires mid-sized LECs to file a certification with the Commission stating that they are complying with section 64.901. The certification must be signed, under oath, by an officer of the mid-sized LEC, and filed with the Commission on an annual basis at the time that the mid-sized incumbent LEC files the annual reports required by section 43.21(e)(2).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–15182 Filed 7–16–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[WT Docket No. 19–348; DA 21–645; FRS 36568]

The Federal Communications Commission and National Telecommunications and Information Administration: Coordination Procedures in the 3.45–3.55 GHz Band

AGENCY: Federal Communications Commission and National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The Federal Communications Commission's Wireless Telecommunications Bureau (WTB) and the National Telecommunications and Information Administration (NTIA) issue this joint *Public Notice* to provide information about the cooperative sharing framework for federal and non-federal coordination in certain, defined areas where and when federal incumbents require continued access in the 3.45–3.55 GHz band. The Public Notice provides information and guidance on the overall coordination process, as contemplated by the *3.45 GHz Band 2d R&O,* including informal pre-coordination discussions, the formal process of submitting coordination requests, and receiving results from relevant federal incumbents. The *Public Notice* also provides a streamlined coordination process for high-power radar sites.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554 and U.S. Department of Commerce, National Telecommunications and Information Administration, 1401 Constitution Avenue NW, Washington, DC 20230.

DATES: Issued on July 19, 2021.

FOR FURTHER INFORMATION CONTACT: Joyce Jones at (202) 418–1327 or *joyce.jones@fcc.gov,* Mobility Division, Wireless Telecommunications Bureau, FCC, or Gabrial Gersten at (202) 482–1182 or *TransitionPlanS@ntia.gov,* Strategic Planning Division, Office of Spectrum Management, NTIA.

SUPPLEMENTARY INFORMATION: This is a summary of a public notice of the coordination procedures in the 3.45–3.55 GHz band, released jointly by the Federal Communications Commission's Wireless Telecommunications Bureau and the United States Department of Commerce, National Telecommunications and Information Administration, WT Docket No. 19–348, DA 21–645, on June 2, 2021. The full text of this document including all Appendices, is available for public inspection at the following internet address: *https://ecfsapi.fcc.gov/file/06021352508295/DA-21-645A1.pdf.* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice) or 202–418–0432 (TTY).

Synopsis

I. Introduction

In March 2021, the Federal Communications Commission announced a planned auction of new flexible-use licenses in the 3.45–3.55 GHz band (Auction 110). *See Auction of Flexible-Use Service Licenses in the 3.45–3.55 GHz Band for Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auction 110,* AU Docket No. 21–62, Public Notice, 2021 WL 1086298 (2021); *see also Facilitating Shared Use in the 3100–3550 MHz Band,* WT Docket No. 19–348, Second Report and Order, Order on Reconsideration, and Order of Proposed Modification, 2021 WL 1086295 (2021) (*3.45 GHz Band 2d R&O*). Auction 110 will offer 4,060 new licenses throughout the contiguous United States, subject to cooperative sharing requirements in certain, defined areas where and when federal incumbents [1] require continued access to the band. The Commission, NTIA, and the Department of Defense (DoD) are working collaboratively towards these goals. By this *Public Notice,* the Commission, through WTB, and NTIA, provide (i) information for potential bidders in the 3.45 GHz Service auction and (ii) guidance to the ultimate 3.45 GHz Service licensees and the affected federal incumbents regarding coordination procedures for shared use of the 3.45 GHz band. The joint nature of this *Public Notice* reflects the intersecting jurisdictions of the Commission (which administers spectrum for non-federal uses) and NTIA (which administers spectrum for federal uses) in the radio spectrum, including in this band.

The *Public Notice* proceeds as follows. In section II, we provide

[1] References to federal incumbents in this *Public Notice* refer to the individual military departments with which 3.45 GHz Service licensees will negotiate coordination agreements.

general background information about federal/non-federal coordination in the areas of the 3.45 GHz band in which federal incumbents have spectrum assignments. In section III, we provide information and guidance on the overall coordination process in areas subject to coordination, consistent with the requirements of the *3.45 GHz Band 2d R&O,* including informal pre-coordination discussions and the formal process of submitting coordination requests and receiving results from relevant federal incumbents.

II. Background

3.45 GHz Band 2d R&O. On March 17, 2021, the Commission adopted rules governing flexible use of spectrum in the 3.45–3.55 GHz band, thereby making 100 megahertz of mid-band spectrum available for flexible-use wireless services, including 5G. Under the Commission's framework for the band, developed in collaboration with the Executive Branch, non-federal systems generally will have unencumbered use of the entire band across the contiguous United States and, with limited exceptions, federal systems operating in the band may not cause harmful interference to non-federal operations in the band. In limited circumstances and in locations where current incumbent federal systems will remain in the band, however, non-federal systems will not be entitled to protection against harmful interference from federal operations (and restrictions may be placed on non-federal operations). These exceptions will occur only in geographic areas specifically identified as Cooperative Planning Areas and Periodic Use Areas.

Cooperative Planning Areas and Periodic Use Areas. Cooperative Planning Areas and Periodic Use Areas are defined in US Footnote US431B to the U.S. Table of Frequency Allocations. US431B also identifies the boundaries of each of the 33 Cooperative Planning Areas, as well as the 23 overlapping Periodic Use Areas, by reference to either a point and radius or a series of coordinates (which create a polygon). 3.45 GHz Service licensees must successfully coordinate their operations with federal incumbent(s) before commencing operation in any Cooperative Planning Area or Periodic Use Area. Several statutory provisions encourage negotiation, coordination, and spectrum sharing between non-federal users and federal entities.[2] Beyond simply coordinating within those areas, federal and non-federal operators are encouraged to enter into mutually acceptable operator-to-operator agreements. Such agreements may permit more extensive flexible use within Cooperative Planning and Periodic Use Areas by adopting a technical approach that mitigates the interference risk to federal operations. The parameters of Cooperative Planning and Periodic Use Areas defined in US431B are the default, but in practice should be a starting point for negotiations between flexible-use licensees and federal incumbents; more expansive use by the flexible-use licensee can be agreed to in areas and under circumstances or parameters acceptable to the federal incumbent.

Fort Bragg and Little Rock. As noted in the 3.45 GHz Band 2d R&O, in all but two of the Cooperative Planning and Periodic Use Areas, 3.45 GHz Service licensees must coordinate with federal incumbents across all 100 megahertz of spectrum within the areas. In the Fort Bragg, North Carolina, Cooperative Planning Area and Periodic Use Area, in contrast, licensees will only need to coordinate in the lower 40 megahertz of the band, *i.e.,* 3450–3490 MHz, because the federal incumbent will only use the lower 40 megahertz of the band in this area, leaving the upper 60 megahertz unencumbered and available for full-power, flexible-use operations in accordance with the rules adopted herein. Thus, licensees in the upper portion of the band, *i.e.,* 3490–3550 MHz, need not coordinate with the federal incumbent in the Fort Bragg areas. In the Little Rock, Arkansas Cooperative Planning Area, for approximately the first 12 months following the close of the auction for this band, licensees will have to coordinate with the federal incumbent across all 100 megahertz of the spectrum within the Little Rock area. After this time period, however, licensees will only need to coordinate in the lower 40 megahertz of the band in the Little Rock area, as the federal incumbent will vacate the upper 60 megahertz, *i.e.,* 3490–3550 MHz, by that time.[3]

Information on Incumbent Federal Operations. Information about incumbent federal operations is generally available through the affected federal incumbents' Transition Plans. By way of background, federal incumbents in the 3.45 GHz band were required to develop and submit Transition Plans to implement relocation or sharing arrangements and affected federal incumbents have done so. Transition Plans contain information on these federal systems, including the frequencies used, emission bandwidth, system use, geographic service area, authorized radius of operation, and estimated timelines and costs for relocation or sharing. Affected federal incumbents are permitted to redact from the publicly released Transition Plans classified national security information and ''other information for which there is a legal basis for nondisclosure and the public disclosure of which would be detrimental to national security, homeland security, or public safety or would jeopardize a law enforcement investigation.''[4] NTIA expects to publish the publicly available Transition Plans on its website no later than June 7, 2021.[5] Other publicly available information from NTIA regarding the 3.45 GHz band is also available through the same website.

The 3.45 GHz band currently is used by the DoD for high- and low-powered radar systems on a variety of platforms in the 3 GHz band, including fixed, mobile, shipborne, and airborne operations, along with testing infrastructure and training operations. Generally, incumbent federal operations in 3.45 GHz band include the following categories of systems:

- High-powered shipborne radars
- Lower power airborne radars
- Lower power ground-based radars
- Testing infrastructure
- Training operations

For information on the incumbent federal operations, please see the Transition Plans and DoD's Workbook and associated file(s) once they are published on NTIA's website.[6]

Below, we describe the specific coordination requirements set forth in the 3.45 GHz Band 2d R&O and we provide guidance regarding how such requirements might be addressed.

[2] *See* NTIA Manual, Annex O (Relocation or Sharing by Federal Government Stations in Support of Reallocation) § O.5.1 (Negotiation and Coordination with Non-Federal Users), *citing, e.g.,* 47 U.S.C. 923(g)(3)(A)(iv)(II) and (g)(3)(B)(i), 923(h)(2)(F); *see also id. at* § 928(d)(3)(B)(i)(II).

[3] The DoD will provide notice to licensee(s) via their portal account(s) and will post a notice on its portal front page, and NTIA will post a similar notice on its 3450–3550 MHz web page (*https://www.ntia.gov/category/3450-3550-mhz*).

[4] *See* 47 U.S.C. 923(h)(7). Each federal entity that requested pre-auction funds attested in its Transition Plan that it will, during the transition period, make available to a non-federal user with appropriate security clearances any classified information regarding the relocation process, on a need-to-know basis, to assist the non-federal user in the relocation process with the eligible federal entity or other eligible federal entities. *Accord* 47 U.S.C. 928(d)(3)(B)(ii)(4); *see also* NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual), Annex O at §§ O.4.1 ¶ 3, O.6.1, and at Appendix: Common Format for Transition Plans, Tab B.

[5] *See* 47 U.S.C. 923(h)(5) (requiring NTIA to publish approved plans on its website no later than 120 days before the start of the auction). *See https://www.ntia.gov/category/3450-3550-mhz.*

[6] *https://www.ntia.gov/category/3450-3550-mhz.*

III. Coordination Process Guidance

Before a 3.45 GHz Service licensee commences operations in a Cooperative Planning Area or Periodic Use Area, it must first successfully coordinate with the federal incumbent(s) associated with that area. The purpose of coordination is to facilitate shared use of the band in these specified areas and during specified time periods. The coordination procedures outlined here will apply to all 3.45 GHz Service licensees seeking to operate in a Cooperative Planning Area or Periodic Use Area, unless the 3.45 GHz Service licensee and the federal incumbent(s) have reached a mutually agreeable coordination arrangement that provides otherwise. Such arrangements could, for example, document specific notification and activation procedures. Moreover, additional coordination requirements, procedures, and scenarios may be developed, consistent with any Administrative Procedure Act or other legal requirement that may apply, in future public notices, specific operator-to-operator agreements, or other mechanisms. We expect 3.45 GHz Service licensees and federal incumbents to negotiate in good faith throughout the coordination process (*e.g.,* sharing information about their respective systems and communicating results to facilitate commercial use [7] of the band).

A. Contact

The DoD will create an online portal through which any 3.45 GHz Service licensee that intends to commence operations within a Cooperative Planning Area or Periodic Use Area must initiate formal coordination requests for its relevant systems within the associated area.

B. Informal Discussions

Before a 3.45 GHz Service licensee submits a formal coordination request, it may share draft proposals or request that federal incumbent coordination staff discuss draft coordination proposals. These discussions are voluntary, informal, and non-binding and can begin at any time after the conclusion of the auction. 3.45 GHz Service licensees may discuss their proposed deployments and seek guidance from the federal incumbent(s) on appropriate measures to ensure that electromagnetic compatibility (EMC) analyses undertaken by the federal incumbent(s) produce positive results. 3.45 GHz Service licensees and federal representatives also may develop an analysis methodology that reflects the characteristics of licensees' proposed deployments and the federal incumbents' operation. These discussions also can involve developing a process for identification and resolution of harmful interference.

Informal discussions are intended to allow federal incumbents and 3.45 GHz Service licensees to share information about their respective system designs and to identify potential issues before a formal coordination request will be submitted through the DoD's online portal. The federal incumbents involved, unless they specify otherwise in writing, would not be committing to any final determination regarding the outcome of the formal coordination. We strongly encourage parties to use informal, non-binding discussions to minimize or resolve basic methodological issues upfront, before having the 3.45 GHz Service licensees submit formal coordination requests. The DoD will provide a single point of contact on NTIA's website upon conclusion of the auction through which a licensee may initiate informal discussions.

C. Formal Coordination

We provide guidance for the formal coordination process below. This description is general, and the process may differ between federal incumbents and is subject to modification by the federal incumbents and licensees as agreed to on an operator-to-operator basis. We expect and encourage federal incumbents and 3.45 GHz Service licensees to engage in good faith coordination.

1. Initiation

Coordination shall be initiated by the 3.45 GHz Service licensee by formally requesting access to operate within a Cooperative Planning Area or Periodic Use Area. This request must be made directly through the DoD's online portal. The 3.45 GHz Service licensee must set up its portal account and, once established, the 3.45 GHz Service licensee will receive a user guide and training on the use of the portal.

2. Timing

No formal coordination for nine (9) months. As set forth in the *3.45 GHz Band 2d R&O,* unless a 3.45 GHz Service licensee and the relevant federal incumbent otherwise agree, no formal coordination requests may be submitted until nine (9) months after the date of the auction closing Public Notice. 3.45 GHz Service licensees may request informal discussions during this nine-month time period as described above in section B.

Timing Generally and Affirmative Concurrence. Nine (9) months after the close of the auction, federal incumbents are expected to timely review and respond to formal coordination requests. We encourage licensees and incumbents, through informal discussions, to serialize formal coordination requests as appropriate to avoid an overwhelming influx of coordination requests at the conclusion of the nine (9) month quiet period. For example, a licensee holding licenses in multiple Cooperative Planning or Periodic Use Areas could provide a prioritized list of coordination requests to be acted upon by the federal incumbent(s). This informal information exchange may aid the licensee in creating its prioritized list of deployments, which is required as part of its formal coordination request. We also encourage licensees and federal incumbents to discuss, as appropriate, extended review timelines to the extent that the incumbents' coordination resources are exhausted due to a large number of requests within a short time period after the quiet period. This will help maximize the quick and efficient review of coordination requests.

When a licensee submits a formal request, the federal point of contact will affirmatively acknowledge receipt of the request within five (5) calendar days after the date of submission. Within ten (10) calendar days after the submission date, federal incumbent staff will notify the 3.45 GHz Service licensee that the request is complete or incomplete. Unless the federal incumbent finds the request incomplete or the federal incumbent and 3.45 GHz Service licensee agree to a different timeline, the federal response (the results letter discussed below) is due within sixty (60) calendar days after the deadline for the notice of completeness.

Unless otherwise agreed to in writing, the requirement to reach a coordination arrangement is satisfied only by obtaining the affirmative concurrence of the relevant federal incumbent(s) via the portal. This requirement is not satisfied by omission.

3. Submission Information

To submit a formal coordination request, the 3.45 GHz Service licensee must include information about the technical characteristics for its base stations and associated mobile units relevant to operation within the Cooperative Planning Area or Periodic Use Area. This information should be

[7] References to commercial use in this *Public Notice* refer to non-federal, primary, flexible use of the 3.45 GHz band and do not preclude use of the band for private mobile radio services. *See* 47 U.S.C. 332(d)(3); 47 CFR 20.3.

provided in accordance with the instructions provided in the DoD's online portal user's guide. The types of specific information, including the likely data fields in the portal, include basic technical operating parameters (*e.g.,* system technology, mobile EIRP, frequency block, channel bandwidth, site name, latitude, and longitude). The portal will accept uploaded attachments that include narratives that explain area-wide deployments.

3.45 GHz Service licensees must prioritize their deployments in the Cooperative Planning Area or Periodic Use Area for each federal incumbent when submitting a formal coordination request. If a licensee seeks to coordinate with multiple systems or multiple locations of operation controlled by one federal incumbent, it must specify the order in which it prefers the federal incumbent process the request (*i.e.,* the order of systems or geographic locations).

4. Notice of Complete or Incomplete Request

Once a licensee submits a formal coordination request, the relevant federal incumbent's coordination staff will review the data to ensure that it is in the proper format and contains the proper content. Federal incumbent coordination staff will notify the 3.45 GHz Service licensee within ten (10) calendar days through the portal that its formal coordination request is complete or incomplete. If the federal incumbent coordination staff finds a request to be incomplete, it must identify the information that the licensee must provide in as much specificity as possible. We expect that parties will work collaboratively to achieve completeness in a timely manner.

5. Coordination Analysis

As noted above, unless a timely notice of incomplete application is sent to the 3.45 GHz Service licensee (or the parties agree to different a timeline), the clock for the federal response begins to run on the deadline for the notice of completeness. The federal response is due within sixty (60) calendar days thereafter, unless the 3.45 GHz Service licensee agrees otherwise. During these sixty (60) days, the federal incumbent will coordinate with appropriate internal units, complete EMC analysis, and post the 3.45 GHz Service concurrence, partial concurrence with operating conditions, or denial. Each federal incumbent is responsible for ensuring that it completes its internal, multi-level review in a timely manner. Federal incumbents are encouraged, through their designated internal coordination point of contact or through other means, to ask any questions and discuss any issues that arise with the 3.45 GHz Service licensee.

Once the designated federal incumbent coordinator completes its analysis pursuant to the formal coordination request, the 3.45 GHz Service licensee and the relevant federal incumbent field offices will be notified automatically when a results letter is posted by the federal user in the portal. The result of a coordination request will be concurrence, partial concurrence with operating conditions that specify the terms in which the licensee may begin operations, or denial of the request. Because of the sensitive nature of the data involved in much of the EMC analysis, the results letter may not present details of the analysis, the federal frequency assignments affected, or timelines. If a federal incumbent does not provide a results letter within the sixty (60) day-deadline, or within the timeline otherwise agreed to by the 3.45 GHz Service licensee, the 3.45 GHz Service licensee may contact NTIA for assistance.

Once a results letter is posted by the federal incumbent coordinator in the portal, we strongly encourage the 3.45 GHz Service licensee to acknowledge receipt of the letter via the portal. If no affirmative acknowledgement is made via the portal, the 3.45 GHz Service licensee should be aware that the federal incumbent coordinator may close out the coordination request in the portal 60 days after posting the results letter. Notwithstanding the 3.45 GHz Service licensee's acknowledgement of receipt, if a 3.45 GHz Service licensee has questions about the result, it may contact the federal incumbent coordinator to propose network design modifications to help address EMC issues raised in the results letter. The federal incumbent coordinator may, where feasible, review technical proposals from the 3.45 GHz Service licensee to relieve or resolve a denial, partial concurrence or any operating condition contained in the results letter. Once the 3.45 GHz Service licensee has revised its network design, it must resubmit a new formal coordination request, and the 3.45 GHz Service formal coordination process will begin again.

We stress again the benefits of informal discussions among 3.45 GHz Service licensees and federal incumbents, including during the formal coordination process. While in many cases, federal incumbent staff may be unable to provide specific information about the protected federal operations and are not responsible for designing the 3.45 GHz Service system, they may offer some suggestions on how to address or mitigate the issue, given the limited information that can be made available on some federal systems. If the parties agree that informal discussions would be helpful, the sixty (60)-day clock will be paused so the federal incumbents are not forced to formally decline or condition the pending, formal coordination request within the sixty (60)-day deadline.

6. Streamlined Coordination Process for High-Power Radar Sites

An optional streamlined framework is available to meet the coordination requirement associated with some of the high-power radar facilities identified with an asterisk (*) in footnote US431B of 47 CFR 2.106 as set forth in Appendix A. The list of sites for which streamlined coordination applies will be posted on NTIA's website at the same time as the Transition Plans. 3.45 GHz Service licensees requesting coordination for a Cooperative Planning Area have a streamlined option set forth in Appendix B of this *Public Notice* in the form of a template coordination agreement. Once a 3.45 GHz Service licensee completes and delivers (via the DoD portal) a signed copy of the template agreement set forth in Appendix B, and the federal incumbent countersigns, the Commission and NTIA will deem the coordination requirement satisfied for the 3.45 GHz Service licenses and Cooperative Planning Areas listed in Table A of the agreement. Federal incumbents will complete and countersign a template agreement within thirty (30) calendar days of receiving one signed by the 3.45 GHz Service licensee. Exchange of information during execution of these coordination agreements may be facilitated by use of the DoD portal described in section C.1 above.

7. Periodic Use Areas Operator-to-Operator Agreements

In accordance with the *3.45 GHz Band 2d R&O,* 3.45 GHz Service licensees and federal incumbents are expected to develop operator-to-operator agreements to define notification processes and timelines before commencement of federal operations within a Periodic Use Area. The operator-to-operator agreement could, for example, specify the notification process, content, and timelines (*i.e.,* the starting and ending dates and times of such use). The agreements also may specify that the 3.45 GHz Service licensee and the federal incumbent may use a scheduling tool to complete the notification process

or agree to technical limitations to commercial operations (*e.g.,* reduced power levels and antenna pointing angles) in lieu of a notification process.

Upon receipt of a coordination request that includes a Periodic Use Area, the DoD will contact the licensee via the portal to schedule a time to discuss establishing an operator-to-operator agreement. Due to the complexities of the negotiations, operator-to-operator agreements may not be finalized during the 60-day coordination analysis process. Both parties are expected to negotiate in good faith.

In addition, an Incumbent Informing Capability (IIC) could be developed to facilitate coordination within the Periodic Use Areas. The IIC concept is a time- and location-based spectrum sharing uniform approach that would enable federal agencies to submit information, reliably and securely, about when and where they would be employing certain frequencies. This scheduling information would inform a licensee, allowing commercial network providers to adjust operations in near real time and avoid harmful interference. The goal is to enable efficient, secure, and reliable spectrum sharing between new commercial networks and the incumbent federal systems. As part of the DoD's funded Transition Plan, the DoD will develop an Automated Sharing Coordination System (ASCS) which could be used to provide notification of the activation of Periodic Use Areas by DoD incumbents. All use of these capabilities is dependent upon the operator-to-operator agreements.

D. Dispute Resolution

Disputes generally—during coordination or regarding a sharing agreement. If disputes arise during the coordination process, we strongly encourage parties to negotiate in good faith to resolve them. If a 3.45 GHz Service licensee believes that a federal incumbent is not negotiating in good faith, the licensee may seek the assistance of NTIA or it can inform the Commission. If a federal incumbent believes that a 3.45 GHz Service licensee is not negotiating in good faith, it must nonetheless timely respond to a formal request and would have the option to seek assistance from NTIA or the Commission. We encourage parties to enter into operator-to-operator agreements that have dispute resolution provisions for any or all possible disputes. If a dispute arises between an incumbent federal incumbent and a 3.45 GHz Service licensee over an operator-to-operator agreement, provisions calling for informal negotiation, mediation, or non-binding arbitration between the parties will help to clearly define and narrow the issues for formal agency resolution by NTIA, the Commission, or both agencies acting jointly, as applicable.

Certain disputes for which the law and NTIA rules allow parties to request a dispute resolution board. If a dispute arises between a federal entity [8] and a 3.45 GHz Service licensee regarding the execution, timing, or cost of the approved Transition Plan, the law provides that either the federal entity or the non-federal user may request that NTIA establish a dispute resolution board to resolve the dispute. *See* Section 113(i) of the NTIA Organization Act, as amended (47 U.S.C. 923(i)). NTIA has adopted regulations that govern the working of any dispute resolution boards established by NTIA. *See* 47 CFR part 301. Those regulations cover matters related to the workings of a board, including the content of any request to establish a board, the associated procedures for convening it, and the dispute resolution process itself.[9]

The Middle Class Tax Relief and Job Creation Act of 2012 requires a board to rule on the dispute within thirty (30) days after a party has requested NTIA to convene the board. As stated in Annex O, ''[t]he statute's 30-day deadline for responding to formal dispute resolution requests could possibly impact a board's ability to convene, meet with the parties, and adequately address complex cases.'' NTIA Manual, Annex O at § O.5.2 ¶ 3. *See* 47 CFR 301.200(a)(2). At the same time, however, the statute and Annex O encourage cooperation to assure timely transitions between federal and non-federal use of the spectrum. If and when differences surface among federal and non-federal parties, NTIA's rules require the parties to make good faith efforts to solve these problems on an informal basis before submitting a formal request to establish a dispute resolution board. Informal negotiation, mediation, or non-binding arbitration between the parties will help to clearly define and narrow the issues needed to be brought into the formal dispute resolution process.

The scope of a dispute resolution request and, consequently, a board's decision, are limited by law and NTIA's regulations to matters ''regarding the execution, timing, or cost of the transition plan submitted by the Federal entity.'' 47 U.S.C. 923(i)(1). The statute authorizes a dispute resolution board to make binding decisions on such matters that can be appealed to the United States Court of Appeals for the District of Columbia Circuit. *Id.* § 923(i)(7). Under NTIA's rules, the dispute resolution board must also ensure that its decision does not have a detrimental impact on any national security, law enforcement, or public safety function made known to the board by an agency. *See* 47 CFR 301.220(b); *see also* NTIA Manual, Annex O at § O.5.2 ¶ 4. To fulfill that obligation, the board may request additional written submissions from an agency regarding the impact of such a decision on the agency's operations, services, or functions.

E. Other Coordination Issues

Sharing of Sensitive and Classified Information. The DoD is establishing a mechanism for the sharing of sensitive and classified information. NTIA expects that further details regarding this process will be posted on NTIA's website soon.

Interference Resolution Process. The introduction of non-federal, flexible-use licenses increases the possibility that harmful interference will occur between new entrants and incumbent federal users. As reflected in the new footnote US431B to the Table of Frequency Allocations, 3.45 GHz Service licensees in both types of coordination areas (Cooperative Planning Areas and Periodic Use Areas) must not cause harmful interference to federal users, and federal users should minimize the operational effect that they have on non-federal users. Furthermore, footnote US431B also provides that 3.45 GHz Service licensees cannot claim interference protection within the coordination areas, absent an operator-to-operator agreement that specifies otherwise. In addition, 3.45 GHz Service licensees may be required to ''avoid, where possible, interference and potential damage to the non-Federal operators' systems.'' 47 CFR 2.106 US431B(a). In instances of identified harmful interference occurring between a federal user and a 3.45 GHz Service licensee not addressed by the coordination procedures or operator agreements, the 3.45 GHz Service licensee shall first attempt to resolve the

[8] We note that the dispute resolution process detailed in 47 U.S.C. 923(i) references certain disputes that may arise between a ''Federal entity'' and a non-federal user. For purposes of this *Public Notice,* such a ''Federal entity'' is the same as a federal incumbent.

[9] Membership of a dispute resolution board shall be composed of a representative of OMB, NTIA, and the FCC, each appointed by the head of his or her respective agency. The OMB representative serves as the Chair of any board. With respect to the resolution of any disputes that may arise, the law and NTIA's rules require a board to meet simultaneously with representatives of the federal entity and the non-federal user to discuss the dispute.

interference directly. If that effort is unsuccessful, the 3.45 GHz Service licensee, if adversely affected, may escalate the matter to the Commission.

Future Workshops and Workbooks. The DoD Transition Plans to be published on NTIA's website will provide important information to prospective auction participants. They will be redacted to remove sensitive information as guided by statute. To supplement its Transition Plans, the DoD will be providing a ''Workbook'' that will offer additional publicly releasable information about its operations and coordination expectations and will be posted on NTIA's website in conjunction with the redacted Transition Plans. The Workbook will be in the form of an Excel spreadsheet containing additional information about where the DoD anticipates its operations will encumber census tracts inside of the Cooperative Planning Areas and Periodic Use Areas based on frequency block and commercial tower height. Its structure will be similar to the AWS–3 DoD Workbook. As noted in both the NTIA letter to the FCC and the *3.45 GHz Band 2d R&O,* the Cooperative Planning Areas and Periodic Use Areas are based on 100-meter commercial towers. The DoD will be providing information on anticipated encumbered census tracts based on both 100-meter and 100-foot commercial towers on a frequency block basis. Additionally, the DoD will be providing anticipated power density level curves for the high-power radar locations via the mechanism for sharing sensitive information described in Section E of this *Public Notice.*

The DoD is also planning to host a public workshop in the July 2021 timeframe to discuss its Transition Plans and the Workbook and answer questions. Further details regarding the exact date, location, and registration information will be made available on NTIA's website in the near future.

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Appendix A

47 CFR 2.106 US431B

US431B The band 3450–3550 MHz is allocated on a primary basis to the Federal radiolocation service and to the non-Federal fixed and mobile, except aeronautical mobile, services on a nationwide basis. Federal operations in the band 3450–3550 MHz shall not cause harmful interference to non-Federal operations, except under the following circumstances.

(a) *Cooperative Planning Areas.* Cooperative Planning Areas (CPAs) are geographic locations in which non-Federal operations shall coordinate with Federal systems in the band to deploy non-Federal operations in a manner that shall not cause harmful interference to Federal systems operating in the band. In addition, operators of non-Federal stations may be required to modify their operations (*e.g.,* reduce power, filtering, adjust antenna pointing angles, shielding, *etc.*) to protect Federal operations against harmful interference and to avoid, where possible, interference and potential damage to the non-Federal operators' systems. In these areas, non-Federal operations may not claim interference protection from Federal systems. Federal and non-Federal operators may reach mutually acceptable operator-to-operator agreements to permit more extensive non-Federal use by identifying and mutually agreeing upon a technical approach that mitigates the interference risk to Federal operations. To the extent possible, Federal use in CPAs will be chosen to minimize operational impact on non-Federal users. The table in paragraph (d) identifies the locations of CPAs, including, for information, those with high powered Federal operations. CPAs may also be Periodic Use Areas as described below. Coordination between Federal users and non-Federal licensees in CPAs shall be consistent with rules and procedures established by the FCC and NTIA.

(b) *Periodic Use Areas.* Periodic Use Areas (PUAs) are geographic locations in which non-Federal operations in the band shall not cause harmful interference to Federal systems operating in the band for episodic periods. During these times and in these areas, Federal users will require interference protection from non-Federal operations. Operators of non-Federal stations may be required to temporarily modify their operations (*e.g.,* reduce power, filtering, adjust antenna pointing angles, shielding, *etc.*) to protect Federal operations from harmful interference, which may include restrictions on non-Federal stations' ability to radiate at certain locations during specific periods of time. During such episodic use, non-Federal users in PUAs must alter their operations to avoid harmful interference to Federal systems' temporary use of the band, and during such times, non-Federal operations may not claim interference protection from Federal systems. Federal and non-Federal operators may reach mutually acceptable operator-to-operator agreements such that a Federal operator may not need to activate a PUA if a mutually agreeable technical approach mitigates the interference risk to Federal operations. To the extent possible, Federal use in PUAs will be chosen to minimize operational impact on non-Federal users. Coordination between Federal users and non-Federal licensees in PUAs shall be consistent with rules and procedures established by the FCC and NTIA. While all PUAs are co-located with CPAs, the exact geographic area used during periodic use may differ from the co-located CPA. The geographic locations of PUAs are identified in the table in paragraph (d). Restrictions and authorizations for the CPAs remain in effect during periodic use unless specifically relieved in the coordination process.

(c) For the CPA at Little Rock, AR, after approximately 12 months from the close of the auction, non-Federal operations shall coordinate with Federal systems in only the 3450–3490 MHz band segment and the 3490–3550 MHz band segment will be available for non-federal use without coordination. At Fort Bragg, NC, non-Federal operations shall coordinate with Federal systems in only the 3450–3490 MHz band segment.

(d) The following table identifies the coordinates for the location of each CPA and PUA. An area may be represented as either a polygon made up of several corresponding coordinates or a circle represented by a center point and a radius. If a CPA has a corresponding PUA, the PUA coordinates are provided. A location marked with an asterisk (*) indicates a high-power federal radiolocation facility. If a location includes a Shipboard Electronic Systems Evaluation Facility (SESEF) attached to a homeport, it specifies the associated SESEF.

TABLE—DEPARTMENT OF DEFENSE COOPERATIVE PLANNING AREAS AND PERIODIC USE AREAS

Location name	State	CPA	PUA	Latitude	Longitude	Radius (km)
Little Rock	AR	Yes		37°28′34″, 37°42′55″, 36°38′29″, 34°57′57″, 32°09′36″, 31°51′52″, 32°12′11″, 33°42′22″, 35°17′35″, 36°12′18″.	94°28′24″, 88°54′36″, 87°52′34″, 88°09′26″, 92°06′54″, 93°10′35″, 94°37′07″, 95°49′52″, 96°23′06″, 96°08′46″.	N/A
Yuma Complex (includes Yuma Proving Grounds and MCAS Yuma).	AZ	Yes	Yes	33°36′44″, 34°03′08″, 34°03′56″, 33°26′54″, 32°51′17″, 32°16′54″, 32°14′39″, 32°20′06″, 32°28′30″, 32°53′20″.	115°10′44″, 114°41′08″, 114°05′56″, 113°03′54″, 113°02′17″, 113°45′54″, 114°40′39″, 114°55′06″, 115°02′30″, 115°09′20″.	N/A
Camp Pendleton	CA	Yes		33°21′46″	117°25′25″	50

TABLE—DEPARTMENT OF DEFENSE COOPERATIVE PLANNING AREAS AND PERIODIC USE AREAS—Continued

Location name	State	CPA	PUA	Latitude	Longitude	Radius (km)
Edwards Air Force Base	CA	Yes	Yes	35°19′16″, 35°17′54″, 35°11′43″, 35°00′52″, 34°44′17″, 34°34′16″, 34°26′55″, 34°28′59″, 34°41′36″, 35°07′32″.	118°03′16″, 117°26′54″, 117°15′43″, 117°10′52″, 117°10′17″, 117°19′16″, 117°47′55″, 118°16′59″, 118°28′36″, 118°25′32″.	N/A
National Training Center	CA	Yes	Yes	36°03′31″, 36°03′09″, 35°41′46″, 35°07′24″, 34°42′43″, 34°44′22″, 35°02′28″, 35°34′49″.	117°00′45″, 116°20′43″, 115°44′31″, 115°44′09″, 116°17′58″, 117°05′19″, 117°35′18″, 117°27′37″.	N/A
Naval Air Weapons Station, China Lake*.	CA	Yes	Yes	36°36′42″, 35°54′45″, 35°00′01″, 34°54′34″, 35°44′22″, 36°30′18″.	117°20′42″, 116°31′45″, 116°39′01″, 117°26′34″, 118°17′22″, 118°07′18″.	N/A
Point Mugu	CA	Yes	Yes	34°06′44″	119°06′36″	38
San Diego* (includes Point Loma SESEF range).	CA	Yes		33°4′10″, 32°27′19″, 32°33′29″, 32°47′16″, 33°1′20″, 33°20′36″, 33°24′36″, 32°52′54″, 33°04′10″.	117°35′40″, 118°0′37″, 116°51′8″, 116°28′5″, 116°31′5″, 116°47′10″, 117°0′51″, 117°9′35″, 117°35′40″.	N/A
Twentynine Palms	CA	Yes		34°06′44″	116°06′36″	75
Eglin Air Force Base (includes Santa Rosa Island & Cape San Blas site).	FL	Yes	Yes	Eglin and Santa Rosa Island: 30°29′28.5″, Cape San Blas: 29°40′37″.	Eglin and Santa Rosa Island: 86°45′00″, Cape San Blas: 85°20′50″.	35
Mayport* (includes Mayport SESEF range).	FL	Yes		30°23′42″	81°24′41″	64
Pensacola*	FL	Yes	Yes	30°20′50″	87°18′40″	93
Joint Readiness Training Center	LA	Yes	Yes	31°54′23″, 31°50′54″, 31°18′13″, 30°46′33″, 30°29′14″, 30°46′22″, 31°25′16″.	93°20′53″, 92°52′46″, 92°26′31″, 92°28′32″, 93°4′1″, 93°41′26″, 94°3′19″.	N/A
Chesapeake Beach*	MD	Yes	Yes	38°39′24″	76°31′41″	95
Naval Air Station, Patuxent River:						
CPA	MD	Yes	Yes	38°26′22″, 38°51′51″, 38°28′11″, 38°03′40″, 37°45′33″, 37°34′34″, 37°38′10″, 38°09′32″, 38°18′46″, 38°26′59″.	76°14′12″, 75°48′34″, 75°28′53″, 75°30′31″, 75°45′50″, 76°20′09″, 76°44′37″, 76°29′28″, 76°34′36″, 76°26′27″.	N/A
PUA				38°33′38″, 39°11′10″, 38°38′51″, 37°52′13″, 37°29′44″, 37°10′24″, 37°20′05″, 38°01′11″, 38°20′54″, 38°35′47″.	76°07′29″, 75°29′28″, 75°00′40″, 75°03′24″, 75°22′25″, 76°16′42″, 77°06′52″, 76°36′06″, 76°46′41″, 76°30′02″.	
St. Inigoes*	MD	Yes	Yes	38°08′41″	76°26′03″	87
Bath*	ME	Yes	Yes	44°02′29″, 43°52′27″, 43°48′53″, 43°32′50″, 43°27′16″, 43°44′26″, 43°54′57″, 44°06′56″, 44°17′2″, 44°26′54″, 44°36′16″, 44°33′45″, 44°57′05″, 44°56′27″, 44°32′13″, 44°24′08″, 44°02′29″.	70°10′41″, 70°10′29″, 70°01′6″, 69°57′30″, 69°42′52″, 69°13′52″, 69°24′50″, 69°25′13″, 69°16′56″, 69°45′13″, 69°56′50″, 70°04′01″, 70°14′55″, 70°19′38″, 70°08′17″, 70°36′36″, 70°10′41″.	N/A
Pascagoula*	MS	Yes	Yes	30°20′42″	88°34′17″	80
Camp Lejeune	NC	Yes		34°37′51″	77°24′28″	54
Cherry Point	NC	Yes		34°54′57″	76°53′24″	38
Fort Bragg	NC	Yes		37°35′01″, 37°45′56″, 37°22′33″, 36°38′56″, 34°43′13″, 33°29′44″, 33°24′04″, 34°01′05″, 35°27′24″, 36°27′46″.	79°31′19″, 77°14′14″, 76°18′30″, 75°51′26″, 76°15′37″, 78°29′53″, 80°29′07″, 81°23′49″, 81°37′00″, 81°22′49″.	N/A
Portsmouth*	NH	Yes	Yes	42°23′06″, 42°25′05″, 42°21′36″, 42°18′28″, 42°13′01″, 42°06′30″, 42°02′54″, 42°08′03″, 42°10′25″, 42°15′39″, 42°22′44″, 42°34′56″, 42°52′26″, 43°13′48″, 43°31′21″, 43°45′21″, 43°59′20″, 43°36′10″, 43°49′27″, 43°27′40″, 43°00′57″, 42°44′40″, 42°51′47″, 42°33′46″, 42°24′24″, 42°23′06″.	71°10′23″, 71°05′43″, 71°00′54″, 70°54′35″, 70°44′53″, 70°41′11″, 70°37′44″, 70°33′35″, 70°20′54″, 70°02′39″, 69°48′42″, 69°36′01″, 69°26′24″, 69°28′18″, 69°40′13″, 70°01′31″, 70°30′21″, 70°52′5″, 71°15′22″, 71°24′47″, 71°53′01″, 71°56′37″, 71°27′07″, 71°27′12″, 71°21′10″, 71°10′23″.	N/A
Moorestown*	NJ	Yes	Yes	40°27′26″, 40°02′54″, 39°48′19″, 39°38′27″, 39°24′59″, 39°17′18″, 39°22′16″, 39°29′35″, 39°54′43″, 40°15′03″, 40°23′29″, 40°42′46″, 40°50′59″, 40°52′49″, 40°47′42″, 40°33′25″, 40°27′26″.	75°42′60″, 75°55′12″, 75°55′55″, 75°51′48″, 75°21′41″, 74°54′09″, 74°27′56″, 74°12′59″, 74°00′05″, 74°06′20″, 74°08′28″, 74°21′54″, 74°31′36″, 74°42′53″, 75°03′00″, 75°28′15″, 75°42′60″.	N/A
White Sands Missile Range	NM	Yes	Yes	34°35′05″, 34°43′50″, 34°43′17″, 34°26′28″, 32°36′02″, 31°45′47″, 31°18′18″, 31°27′23″, 32°38′49″, 33°32′40″.	107°06′05″, 106°46′50″, 106°03′17″, 105°26′28″, 104°55′02″, 105°22′47″, 106°06′18″, 106°54′23″, 107°25′49″, 107°27′40″.	N/A
Nevada Test and Training Range.	NV	Yes	Yes	35°58′48″, 36°38′22″, 36°22′37″, 36°54′03″, 37°58′01″, 38°59′48″, 38°58′35″, 37°52′34″, 36°20′30″, 36°21′15″.	115°31′55″, 116°23′51″, 117°41′35″, 117°59′18″, 118°01′17″, 116°46′01″, 114°49′25″, 113°35′46″, 113°39′51″, 115°14′23″.	N/A
Fort Sill	OK	Yes	Yes	35°03′39″, 35°10′31″, 34°42′54″, 34°13′49″, 34°13′46″, 34°38′26″.	99°02′38″, 98°05′47″, 97°45′20″, 98°05′49″, 98°56′09″, 99°16′57″.	N/A
Tobyhanna Army Depot	PA	Yes		41°30′25″, 41°38′51″, 41°31′41″, 41°11′31″, 40°52′07″, 40°44′53″, 40°51′43″, 41°07′40″.	75°51′60″, 75°26′33″, 75°1′39″, 74°50′07″, 75°1′2″, 75°23′50″, 75°48′52″, 76°00′38″.	N/A

TABLE—DEPARTMENT OF DEFENSE COOPERATIVE PLANNING AREAS AND PERIODIC USE AREAS—Continued

Location name	State	CPA	PUA	Latitude	Longitude	Radius (km)
Dahlgren*	VA	Yes	Yes	38°23′10″, 38°41′25″, 38°46′14″, 38°49′37″, 38°50′16″, 38°46′30″, 38°49′42″, 38°54′42″, 38°55′37″, 38°56′05″, 38°44′45″, 38°44′22″, 38°35′14″, 38°51′04″, 38°26′52″, 38°22′59″, 37°59′27″, 37°47′08″, 37°54′01″, 38°23′10″.	76°23′21″, 76°35′56″, 76°44′44″, 76°54′57″, 76°58′18″, 77°01′57″, 77°04′08″, 77°7′35″, 77°12′04″, 77°23′5″, 77°25′23″, 77°28′48″, 77°36′11″, 78°12′06″, 78°29′02″, 77°42′19″, 77°28′26″, 76°53′47″, 76°06′14″, 76°23′21″.	N/A
Newport News*	VA	Yes	Yes	36°58′24″	76°26′07″	93
Norfolk* (includes Fort Story SESEF range).	VA	Yes		36°56′24″	76°19′55″	74
Wallops Island*	VA	Yes	Yes	37°51′25″	75°27′59″	76
Bremerton*	WA	Yes	Yes	47°28′40″, 47°31′16″, 47°31′13″, 47°34′12″, 47°45′36″, 47°59′07″, 48°12′20″, 47°39′46″, 47°39′12″, 47°45′23″, 47°44′48″, 47°57′40″, 47°31′15″, 47°35′53″, 47°27′33″, 47°27′07″, 47°24′25″, 47°23′07″, 47°28′33″, 46°50′25″, 46°53′09″, 47°28′40″.	122°31′22″, 122°31′26″, 122°32′37″, 122°31′52″, 121°32′28″, 121°34′09″, 121°44′51″, 122°29′60″, 122°34′35″, 122°38′09″, 122°45′18″, 122°59′06″, 123°16′23″, 122°49′28″, 122°55′25″, 122°46′16″, 122°42′48″, 122°39′18″, 122°33′44″, 121°49′24″, 121°44′01″, 122°31′22″.	N/A
Everett* (includes Ediz Hook SESEF range).	WA	Yes		47°51′11″, 47°25′13″, 47°54′45″, 47°36′60″, 47°51′57″, 48°35′49″, 48°00′8″, 47°51′10″.	122°57′47″, 123°18′6″, 122°10′13″, 121°37′60″, 121°22′57″, 122°08′13″, 123°29′33″, 122°57′47″.	N/A

Appendix B

Streamlined Coordination Option—Template Agreement Coordination Agreement Between [3.45 GHz Service Licensee] (''3.45 GHz Service Licensee'') and [Federal Incumbent] (''Federal Incumbent'')

1. Introduction

This Coordination Agreement is between [Insert name of 3.45 GHz Service Licensee](hereinafter referred to as the ''3.45 GHz Service Licensee''), and [Insert name of Federal Incumbent] (hereinafter referred to as the ''Federal Incumbent''), and sets forth the terms and conditions for their operations in the 3.45–3.55 GHz band.

2. Acknowledgement of Regulations

All 3.45 GHz Service licensees must accept interference caused by the operation of Federal Incumbent's [high-powered radar] site(s) and shall protect Federal Agency's high-powered radar operations, as required by 47 CFR 27.1602 and 47 CFR 2.106, footnote US431B. The parties agree that within the Cooperative Planning Areas listed in Table A below, the 3.45 GHz Service Licensee will coordinate with the Federal Incumbent by notifying the Federal Incumbent of the 3.45 GHz Service Licensee's intent to commence flexible-use service within the Cooperative Planning Area and submitting the additional information as listed in Section 4 below, prior to use of the spectrum. In cases where interference from high-powered radar site(s) results in 3.45 GHz Service Licensee customer complaints, the 3.45 GHz Service Licensee will take actions to address those complaints and employ mitigation methods to reduce the likelihood of them reoccurring.

TABLE A—DESCRIPTION OF LICENSE(S) SUBJECT TO THIS AGREEMENT

State, Site, 3.45 GHz Service License Call Sign(s), Cooperative Planning Area.

3. Point-of-contact

The Federal Incumbent and the 3.45 GHz Service Licensee hereby authorize the individuals listed in Table B below to serve as their Points of Contact (POC) for purposes of compliance with the notification and communication requirements of this Coordination Agreement.

TABLE B—POINTS OF CONTACT

[Federal Agency]	[3.45 GHz service licensee]
Name: Address: Phone:	Name: Address: Phone:

4. 3.45 GHz Service Licensee Notification to Federal Incumbent

As required by Section 2 above, the 3.45 GHz Service Licensee will provide to the Federal Incumbent the following information:

- 3.45 GHz Service Licensee's deployment plans in the Cooperative Planning Area;
- Methods the 3.45 GHz Service Licensee plans to use to mitigate interference into its base station receivers, and an explanation of how the methods will mitigate interference from high-powered radar(s) and prevent any impaired consumer experience;
- Contact information for the 3.45 GHz Service Licensee's network operation center and local engineering staff; and
- Assurance that the 3.45 GHz Service Licensee will satisfy its obligations to provide safety of life services (*i.e.,* 911) on bands other than the 3.45 GHz band in the Cooperative Planning Area as needed.

5. Continuing Communications Between 3.45 GHz Service Licensee and Federal Incumbent

The parties shall:

- Address with each other, when the need first arises, any consumer complaints associated with the 3.45 GHz Service Licensee's operations near Federal high-powered radar(s). This may include the 3.45 GHz Service Licensee's development of external communication regarding reports of interference or interruption of service using the 3.45 GHz band. This external communication should reflect the acknowledgement of regulations in Section 2 above; and
- Meet annually to discuss network deployments, current and future technologies, interference mitigation techniques, consumer experiences, and other relevant topics necessary to help the Federal Incumbent understand the evolving use of the band, and its impact upon 3.45 GHz Service operations;
- The above additional interactions can be initiated by either POC listed above.

6. Substantial Changes to High-Powered Radar Operations or 3.45 GHz Service Deployments

If either party plans operations that are substantially different from the [original] concept of operations, the differences must be discussed during the annual meeting required by Section 5 above unless an immediate meeting is required to mitigate new and/or unexpected interference.

7. Sensitive/Proprietary Information

All information exchanged under this Coordination Agreement is considered sensitive/proprietary. Any exchange of information associated with this Coordination Agreement should be marked as sensitive/proprietary.

8. Successful Coordination

Execution of and compliance with all terms of this Coordination Agreement meets the regulatory requirement for successful coordination in 47 CFR 27.1603.

Signatories:

[Federal Incumbent]

[3.45 GHz Service Licensee]

Date:

[FR Doc. 2021–14968 Filed 7–16–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (Bureau) Regulation M (FR M; OMB No. 7100–0202).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Disclosure Requirements Associated with the Consumer Financial Protection Bureau's Regulation M.

Agency form number: FR M.

OMB control number: 7100–0202.

Frequency: On occasion.

Respondents: The FR M panel comprises state member banks with assets of $10 billion or less that are not affiliated with an insured depository institution with assets over $10 billion (irrespective of the consolidated assets of any holding company); non-depository affiliates of such state member banks; and non-depository affiliates of bank holding companies that are not affiliated with an insured depository institution with assets over $10 billion. Notwithstanding the foregoing, the Bureau, and not the Board, has supervisory authority for Regulation M with respect to automobile leasing over non-banks defined as ''larger participants'' in the automobile finance market pursuant to 12 U.S.C. 5514 (implemented by 12 CFR 1090.108).

Estimated number of respondents: 4.

Estimated average hours per response: Lease disclosures, 0.11; Advertising rules, 0.42.

Estimated annual burden hours: Lease disclosures, 252; Advertising rules, 7.

General description of report: The Consumer Leasing Act (CLA) and Regulation M are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property. The disclosures enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions. The CLA and Regulation M also contain rules about advertising consumer leases and limit the size of balloon payments in consumer lease transactions.

The Bureau's Regulation M applies to all types of lessors of personal property (except motor vehicle dealers excluded from the Bureau's authority under Dodd-Frank Act section 1029, which are covered by the Board's Regulation M). The CLA and Regulation M require lessors uniformly to disclose to consumers the costs, liabilities, and terms of consumer lease transactions.

Legal authorization and confidentiality: The FR M is authorized pursuant to sections 105(a) and 187 of the Truth in Lending Act (TILA), which require that the Bureau prescribe regulations regarding the disclosure requirements relating to consumer lease transactions. The FR M is mandatory.

Because the disclosures and records comprising the FR M are maintained at each banking organization, the Freedom of Information Act (FOIA) would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process.[1]

Current actions: On April 16, 2021, the Board published an initial notice in the **Federal Register** (86 FR 20155) requesting public comment for 60 days on the extension, without revision, of the FR M. The comment period for this notice expired on June 15, 2021. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, July 13, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–15287 Filed 7–16–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW,

[1] 5 U.S.C. 552(b)(8).

Washington, DC 20551–0001, not later than August 18, 2021.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Community Capital Bancorp, Inc., Menomonee Falls, Wisconsin;* to become a bank holding company by acquiring Collins Bankcorp, Inc., and thereby indirectly acquiring Collins State Bank, both of Collins, Wisconsin.

Board of Governors of the Federal Reserve System, July 14, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–15310 Filed 7–16–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with the Home Mortgage Disclosure Act (HMDA) Loan/Application Register Required by Regulation C (FR HMDA LAR; OMB No. 7100–0247).

DATES: Comments must be submitted on or before September 17, 2021.

ADDRESSES: You may submit comments, identified by FR HMDA LAR, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Reporting, Recordkeeping, and Disclosure Requirements Associated with the Home Mortgage Disclosure Act (HMDA) Loan/Application Register Required by Regulation C.

Agency form number: FR HMDA LAR.

OMB control number: 7100–0247.

Frequency: Annually and quarterly.

Respondents: State member banks, their subsidiaries, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.

Estimated number of respondents: Reporting—Tier 1 Annual Reporter, 3; Tier 1 Quarterly Reporter, 1; Tier 2, 131; Tier 2 Partial Reporter, 308; and Tier 3 Partial Reporter, 33; Recordkeeping—Tier 1 Annual Reporter, 3; Tier 1 Quarterly Reporter, 1; Tier 2, 439; and Tier 3, 33; and Disclosure—Tier 1 Annual Reporter, 3; and Tier 1 Quarterly Reporter, 1.

Estimated average hours per response: Reporting—Tier 1 Annual Reporter, 5,969; Tier 1 Quarterly Reporter, 6,903; Tier 2, 1,232; Tier 2 Partial Reporter, 986; and Tier 3 Partial Reporter, 64; Recordkeeping—Tier 1 Annual Reporter, 4,130; Tier 1 Quarterly Reporter, 4,130; Tier 2, 83; and Tier 3, 27; and Disclosure—Tier 1 Annual

Reporter, 5; and Tier 1 Quarterly Reporter, 5.

Estimated annual burden hours: Reporting—Tier 1 Annual Reporter, 17,907; Tier 1 Quarterly Reporter, 27,612; Tier 2, 161,392; Tier 2 Partial Reporter, 303,688; and Tier 3 Partial Reporter, 2,112; Recordkeeping—Tier 1 Annual Reporter, 12,390; Tier 1 Quarterly Reporter, 16,520; Tier 2, 36,437; and Tier 3, 891; and Disclosure—Tier 1 Annual Reporter, 15; and Tier 1 Quarterly Reporter, 20.

General description of report: HMDA was enacted in 1975 and is implemented by Regulation C. Generally, HMDA requires certain depository and non-depository institutions that make certain mortgage loans to collect, report, and disclose data about originations and purchases of mortgage loans, as well as loan applications that do not result in originations (for example, applications that are denied or withdrawn). HMDA was enacted to provide regulators and the public with loan data that can be used to (1) help determine whether financial institutions are serving the housing needs of their communities, (2) assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed, and (3) assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.[1] Supervisory agencies, state and local public officials, and members of the public use the data to aid in the enforcement of the Community Reinvestment Act, the Equal Credit Opportunity Act, and the Fair Housing Act and to aid in identifying areas for residential redevelopment and rehabilitation.

Legal authorization and confidentiality: The FR HMDA LAR is authorized pursuant to section 304(j) of HMDA, which requires that the Consumer Financial Protection Bureau (Bureau) prescribe by regulation the form of loan application register information that must be reported by covered financial institutions. Section 1003.5 of Regulation C implements this statutory provision, and requires covered financial institutions to submit reports to their appropriate federal agency. Section 304(h)(2)(A) of HMDA designates the Board as the appropriate agency with respect to the entities described above. The FR HMDA LAR is mandatory.

HMDA requires the information collected on the FR HMDA LAR to be made available to the general public in the form required under regulations prescribed by the Bureau. The Bureau is authorized to redact or modify the scope of the information before it is publicly disclosed to protect the privacy of loan applicants and to protect depository institutions from liability under any federal or state privacy law. The redacted information may be kept confidential under exemption 6 of the Freedom of Information Act, which protects from release information that, if disclosed, would ''constitute a clearly unwarranted invasion of personal privacy.'' [2]

Board of Governors of the Federal Reserve System, July 13, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–15289 Filed 7–16–21; 8:45 am]

BILLING CODE 6210–01–P

[1] See 12 CFR 1003.1(b).

[2] 5 U.S.C. 552(b)(6).

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB's) Regulation B.

DATES: Comments must be submitted on or before September 17, 2021.

ADDRESSES: You may submit comments, identified by FR B, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Recordkeeping and Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB's) Regulation B.

Agency form number: FR B.

OMB control number: 7100–0201.

Frequency: On occasion; annually.

Respondents: The Board accounts for the paperwork burden imposed under the Equal Credit Opportunity Act (ECOA), as implemented by the CFPB's Regulation B, for the following institutions (except those entities supervised by the CFPB): State member banks; subsidiaries of state member banks; subsidiaries of bank holding companies; U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks); commercial lending companies owned or controlled by foreign banks; and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a; 611–631).

Estimated number of respondents: Record retention for applications, actions, prescreened solicitations, self-testing, and self-correction, Information for monitoring purposes (recordkeeping), Notifications, Furnishing of credit information, Information for monitoring purposes (disclosure), and Rules on providing appraisals and other valuations, 851; Self-testing: Incentives for self-testing, 187; Incentives for self-correction, 47; and Rules concerning requests for information, disclosure for optional self-test, 187.

Estimated average hours per response: Record retention for applications, actions, prescreened solicitations, self-testing, and self-correction, 0.004; Information for monitoring purposes (recordkeeping), 0.017; Notifications, Furnishing of credit information, and Information for monitoring purposes (disclosure), 0.004; Rules on providing appraisals and other valuations, 0.008; Self-testing: Incentives for self-testing, 0.004; Incentives for self-correction, 0.016; and Rules concerning requests for information, disclosure for optional self-test, 0.004.

Estimated annual burden hours: Record retention for applications, actions, prescreened solicitations, self-testing, and self-correction, 27,344; Information for monitoring purposes (recordkeeping); Notifications, 27,344; Furnishing of credit information, 4,844; Information for monitoring purposes (disclosure), 5,998; Rules on providing appraisals and other valuations; Self-testing: Incentives for self-testing, Incentives for self-correction, and Rules concerning requests for information, disclosure for optional self-test, 1.

General description of report: The ECOA prohibits discrimination in any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. To aid in implementation of this prohibition, the statute and Regulation B subject creditors to various mandatory disclosure requirements, notification provisions informing applicants of action taken on the credit application, provision of appraisal reports in connection with mortgages, credit history reporting, monitoring rules, and recordkeeping requirements. These requirements are triggered by specific events, and disclosures must be provided within the time periods established by the statute and regulation.

Legal authorization and confidentiality: The ECOA authorizes the CFPB to issue regulations to carry out the statute's purposes.[1] The ECOA also directs the CFPB to promulgate regulations requiring covered entities to maintain records evidencing compliance with the statute for at least one year.[2] These regulations impose disclosure and recordkeeping requirements on Board-supervised entities. Compliance with the recordkeeping and disclosure requirements of the CFPB's Regulation B is mandatory.

The disclosures, records, policies, and procedures required by Regulation B are not required to be submitted to the Board. This information would generally only be obtained if Federal Reserve examiners retained a copy as part of an examination or supervision of a bank, in which case the information may be treated as confidential under exemption 8 of the Freedom of Information Act (FOIA).[3] In addition, exemptions 4 and 6 of the FOIA may also apply to certain information obtained by the Board. Exemption 4 may apply if the information is confidential commercial or financial information that is both customarily and actually treated as private by the respondent.[4] Exemption 6 may apply to information, the disclosure of which would ''constitute a clearly unwarranted invasion of personal privacy.'' [5]

Consultation outside the agency: The Board consulted with the CFPB regarding the estimated burden of this information collection.

Board of Governors of the Federal Reserve System, July 13, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–15285 Filed 7–16–21; 8:45 am]

BILLING CODE 6210–01–P

[1] 15 U.S.C. 1691b(a).

[2] 12 U.S.C. 1691b(d).

[3] 5 U.S.C. 552(b)(8).

[4] 5 U.S.C. 552(b)(4).

[5] 5 U.S.C. 552(b)(6).

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 August 3, 2021.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org*:

1. *Jeremy Francis Gilpin, South Lake Tahoe, California, and Jeffrey Alan Smith, Atlanta, Georgia;* as a group acting in concert, to acquire voting shares of Community Bankshares, Inc., LaGrange, Georgia, and thereby indirectly acquire voting shares of Community Bank and Trust—West Georgia, LaGrange, Georgia, and Community Bank and Trust—Alabama, Union Springs, Alabama.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Brian Herbstritt Revocable Trust, Chicago, Illinois, Brian Herbstritt, as trustee, River Forest, Illinois; the Deborah Herbstritt Revocable Trust, Chicago, Illinois, Deborah Maloney, as trustee, River Forest, Illinois; and the Amy Reardon Revocable Trust, Chicago, Illinois, Amy Reardon, as trustee, River Forest, Illinois;* to join the Herbstritt Family Control Group, a group acting in concert, to retain voting shares of Schaumburg Bancshares, and thereby indirectly retain voting shares of Heritage Bank of Schaumburg, both of Schaumburg, Illinois.

Board of Governors of the Federal Reserve System, July 14, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–15307 Filed 7–16–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping Requirements Associated with Regulation GG (FR GG; OMB No. 7100–0317).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Recordkeeping Requirements Associated with Regulation GG.

Agency form number: FR GG.

OMB control number: 7100–0317.

Frequency: Annually.

Respondents: Depository institutions, credit unions, card system operators, and money transmitting business operators.

Estimated number of respondents: Depository institutions: 2,331; credit unions: 2,575; card system operators: 7; money transmitting business operators: 62; and new or de novo institutions: 3.

Estimated average hours per response: Ongoing annual burden of 8 hours per recordkeeper for depository institutions, credit unions, card system operators, and money transmitting business operators. One time burden of 100 hours for new or de novo institutions.

Estimated annual burden hours: Ongoing burden: 39,800; one-time burden: 300.

General description of report: Section 5 of Regulation GG, Prohibition on Funding of Unlawful internet Gambling, requires all non-exempt participants in designated payment systems to establish and implement policies and procedures reasonably designed to identify and block, or otherwise prevent or prohibit, transactions restricted by the Unlawful internet Gambling Enforcement Act of 2006.[1] In addition, section 5 states that a participant in a designated payment system may rely on policies and procedures established by the designated payment system if the system's policies and procedures otherwise comply with the requirements of the regulation.[2]

Section 6 of Regulation GG sets out non-exclusive examples of policies and procedures for each designated payment system that the Board and the Department of the Treasury believe are reasonably designed to prevent or prohibit restricted transactions for non-exempt participants in the system.[3]

The internal agency tracking number previously assigned by the Board to this information collection was ''FR 4026.'' The Board has changed the internal agency tracking number to ''FR GG'' for the purpose of consistency.

Legal authorization and confidentiality: FR GG is authorized by section 802 of the Unlawful internet Gambling Enforcement Act, which permits the Board to prescribe regulations requiring designated payment systems and participants therein to establish policies and procedures to identify and block or otherwise prevent and prohibit restricted transactions (31 U.S.C. 5364(a)). The obligation to respond is mandatory.

The policies and procedures required by Regulation GG are not required to be submitted to the Board. To the extent such policies and procedures are obtained by the Board through the examination process, they may be kept confidential under exemption 8 of the Freedom of Information Act, which protects information contained in or related to an examination of a financial institution.[4]

Current actions: On March 8, 2021, the Board published a notice in the **Federal Register** (86 FR 13380) requesting public comment for 60 days on the extension, without revision, of

[1] 12 CFR 233.5(a).

[2] 12 CFR 233.5(b).

[3] *See* 12 CFR 233.6.

[4] 5 U.S.C. 552(b)(8).

the Recordkeeping Requirements Associated with Regulation GG. The comment period for this notice expired on May 7, 2021. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, July 13, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–15286 Filed 7–16–21; 8:45 am]

BILLING CODE 6210–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Request for Health Information Technology Advisory Committee (HITAC) Nominations

AGENCY: U.S. Government Accountability Office (GAO).

ACTION: Request for letters of nomination and resumes.

SUMMARY: The 21st Century Cures Act established HITAC to provide recommendations to the National Coordinator for Health Information Technology on policies, standards, implementation specifications, and certification criteria relating to the implementation of a health information technology infrastructure that advances the electronic access, exchange, and use of health information. The Act gave the Comptroller General of the United States responsibility for appointing a portion of HITAC's members. The Act requires that members at least reflect providers, ancillary health care workers, consumers, purchasers, health plans, health information technology developers, researchers, patients, relevant Federal agencies, and individuals with technical expertise on health care quality, system functions, privacy, security, and on the electronic exchange and use of health information, including the use standards for such activity. GAO is now accepting nominations for HITAC appointments that will be effective January 1, 2022. From these nominations, GAO expects to appoint at least 5 new HITAC members, focusing especially on health care providers, ancillary health care workers, health information technology developers, and patient advocates. Nominations should be sent to the email address listed below. Acknowledgement of submissions will be provided within a week of submission.

DATES: Letters of nomination and resumes should be submitted no later than August 24, 2021, to ensure adequate opportunity for review and consideration of nominees prior to appointment.

ADDRESSES: Submit letters of nomination and resumes to *HITCommittee@gao.gov.*

FOR FURTHER INFORMATION CONTACT: Shannon Legeer at (202) 512–3197 or *legeers@gao.gov* if you do not receive an acknowledgment or need additional information. For general information, contact GAO's Office of Public Affairs, (202) 512–4800.

Authority: Pub. L. 114–255, sec. 4003(e) (2016), 42 U.S.C. 300jj–12.

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2021–15136 Filed 7–16–21; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–21–0212; Docket No. CDC–2021–0069]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled the National Hospital Care Survey (NHCS). The goal of the project is to assess patient care in hospital-based settings, and to describe patterns of health care delivery and utilization in the United States.

DATES: CDC must receive written comments on or before September 17, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0069 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

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; and

5. Assess information collection costs.

Proposed Project

National Hospital Care Survey (NHCS) (OMB Control No. 0920–0212, Exp. 03/31/2022)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. This three-year clearance request for National Hospital Care Survey (NHCS) includes the collection of all inpatient and ambulatory Uniform Bill–04 (UB–04) claims data or electronic health record (EHR) data, as well as the collection of hospital-level information via a questionnaire from a sample of 608 hospitals.

The National Ambulatory Medical Care Survey (NAMCS) was conducted intermittently from 1973 through 1985, and annually since 1989. The survey is conducted under authority of Section 306 of the Public Health Service Act (42 U.S.C. 242k). The National Hospital Discharge Survey (NHDS) (OMB No. 0920–0212, Exp. Date 01/31/2019), conducted continuously between 1965 and 2010, was the Nation's principal source of data on inpatient utilization of short-stay, non-institutional, non-Federal hospitals, and was the principal source of nationally representative estimates on the characteristics of inpatients including lengths of stay, diagnoses, surgical and non-surgical procedures, and patterns of use of care in hospitals in various regions of the country. In 2011, NHDS was granted approval by OMB to expand its content and to change its name to the National Hospital Care Survey (NHCS).

In May 2011, recruitment of sampled hospitals for the NHCS began. Hospitals in the NHCS are asked to provide data on all inpatients from their UB–04 administrative claims, or EHRs. Hospital-level characteristics and data on the impact of COVID–19 on the hospital are collected through an Annual Hospital Interview. NHCS will continue to provide the same national health-care statistics on hospitals that NHDS provided. Additionally, NHCS collects more information at the hospital level (*e.g.,* volume of care provided by the hospital), which allow for analyses on the effect of hospital characteristics on the quality of care provided. NHCS data collected from UB–04 administrative claims and EHRs include all inpatient discharges, not just a sample. The confidential collection of personally identifiable information allows NCHS to link episodes of care provided to the same patient in the ED and/or OPD and as an inpatient, as well as link patients to the National Death Index (NDI) to measure post-discharge mortality, and Medicare and Medicaid data to leverage comorbidities. The availability of patient identifiers also makes analysis on hospital readmissions possible. This comprehensive collection of data makes future opportunities for surveillance possible, including analyzing trends and incidence of opioid misuse, acute myocardial infarction, heart failure and stroke, as well as trends and point prevalence of health care acquired infections and antimicrobial use.

Beginning in 2013, in addition to inpatient hospital data, hospitals participating in NHCS were asked to provide data on the utilization of health care services in their ambulatory settings (*e.g.,* EDs and OPDs). Due to low response rates and high level of missing data, OPD data were not collected in the last approval period (2019, 2020 and 2021). Collection of OPD may resume in future years.

Data collected through NHCS are essential for evaluating the health status of the population, for the planning of programs and policy to improve health care delivery systems of the Nation, for studying morbidity trends, and for research activities in the health field. There are no changes to the data collection survey. The only change is to the burden hours due to the increase of the sample size. The new total annualized burden is 7,184 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Hospital DHIM or DHIT	Initial Hospital Intake Questionnaire	150	1	1	136
Hospital CEO/CFO	Recruitment Survey Presentation	150	1	1	136
Hospital DHIM or DHIT	Prepare and transmit UB–04 or State File for Inpatient and Ambulatory (monthly).	408	12	1	4,896
Hospital DHIM or DHIT	Prepare and transmit EHR for Inpatient and Ambulatory (quarterly).	200	4	1	800
Hospital CEO/CFO	Annual Hospital Interview	608	1	2	1,216
Total					7,184

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–15229 Filed 7–16–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Multi-Agency Informational Meetings To Discuss Reporting Requirements for Entities; Public Webinars

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

ACTION: Notice of public webinars.

SUMMARY: The HHS/CDC's Division of Select Agents and Toxins (DSAT) and the U.S. Department of Agriculture/Animal and Plant Health Inspection Service (APHIS)'s Division of Agricultural Select Agents and Toxins (DASAT) are jointly charged with the regulation of the possession, use and transfer of biological agents and toxins that have the potential to pose a severe threat to public, animal or plant health

or to animal or plant products (select agents and toxins). This joint effort constitutes the Federal Select Agent Program. Due to the continuing pandemic and concerns for the safety of our workshop attendees and employees, DSAT replaced in-person workshops with webinars. The purpose of the webinars is to provide guidance on completing APHIS/CDC Form 2 (Request to Transfer Select Agents and Toxins), APHIS/CDC Form 3 (Report of a Release/Loss/Theft), and APHIS/CDC Form 4 (Reporting the Identification of a Select Agent or Toxin) (APHIS/CDC Forms 2–4) for interested individuals. Two sessions covering the same agenda will be held to provide two opportunities for interested individuals to participate.

DATES: The webinars will be held October 6, 2021 from 10 a.m. to 12:30 p.m. (EDT) and November 3, 2021 from 1:30 p.m. to 4:00 p.m. (EDT). Registration instructions are found on the website, *https://www.selectagents.gov.*

ADDRESSES: The webinars will be conducted from the Centers for Disease Control and Prevention, 1600 Clifton Road NE, Atlanta, Georgia 30329.

FOR FURTHER INFORMATION CONTACT: CDC: Samuel S. Edwin, Ph.D., Director, DSAT, Center for Preparedness and Response, CDC, 1600 Clifton Road NE, MS H–21–7, Atlanta, Georgia 30329. Telephone: (404) 718–2000; email: *lrsat@cdc.gov.* APHIS: Jack Taniewski, DVM, Director, DASAT, APHIS, 4700 River Road, Unit 2, Riverdale, MD 20737. Telephone: (301) 851–2070; email: *DASAT@usda.gov.*

SUPPLEMENTARY INFORMATION: The two public webinar sessions covering the same content, scheduled for Wednesday, October 6, 2021 and Wednesday, November 3, 2021, are opportunities for interested individuals to obtain guidance on completing the APHIS/CDC Forms 2–4 and reporting requirements related to the select agent and toxin regulations (7 CFR part 331, 9 CFR part 121 and 42 CFR part 73). For individuals not able to attend the webinars, the information will be available under the training section at *http://www.selectagents.gov.*

Representatives from the Federal Select Agent Program will be present during the webinars followed by question and answer session to address questions and concerns from the webinar participants.

Participants who want to participate in the webinar should complete their registration online by September 18, 2021. The registration instructions are located on this website: *http://www.selectagents.gov.*

Dated: July 14, 2021.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2021–15305 Filed 7–16–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces 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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463.

Name of Committee: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Dates: October 20–21, 2021.

Time: 11:00 a.m.–5:00 p.m., EDT.

Place: Teleconference.

Agenda: The meeting will convene to address matters related to the conduct of Study Section business and for the study section to consider safety and occupational health-related grant applications.

For Further Information Contact: Michael Goldcamp, Ph.D., Scientific Review Officer, NIOSH, CDC, 1095 Willowdale Road, Morgantown, WV 26506; Telephone: (304) 285–5951; Email: *mgoldcamp@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–15246 Filed 7–16–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–21–21DC]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled National Syringe Services Program (SSP) Evaluation to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on February 25, 2021 to obtain comments from the public and affected agencies. CDC received three public comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open

for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Syringe Services Program Evaluation—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The primary purpose of the National Syringe Services Program (SSP) Evaluation is to strengthen and improve the capacity of SSPs to conduct regular monitoring and evaluation to ensure that comprehensive prevention services are provided to meet the needs of people who inject drugs (PWID). The project will include SSPs that are listed in a publicly available directory of all known SSPs in the United States maintained by the North American Syringe Exchange Network (NASEN; *https://nasen.org*). SSPs will be sent a letter of invitation to participate in a 35-minute program survey, called the Dave Purchase Memorial Survey. Participating programs will have the option of completing the survey via different modalities to enhance feasibility and comfort in completing the survey, for example via the Research Electronic Data Capture (REDCap) or a similarly secure web-based application. Other modalities for survey administration will include a coordinated telephone or videoconferencing interview.

The survey will include questions on operational characteristics and services, client characteristics and drug use patterns, client satisfaction, funding resources, community relations, and key operational successes and challenges. Approximately 600 SSPs will be able to participate in the survey. We anticipate that approximately 20% of SSPs will decline to complete the survey, yielding approximately 480 completed surveys per year. However, given that this is the first survey of SSPs funded by CDC during the COVID–19 pandemic, it makes it challenging to predict response rates. We estimate that it will take 35 minutes to complete the survey, regardless of how the respondent chooses to complete it (*i.e.,* self-administered online or interviewer-administered by phone or videoconferencing). SSPs that do not respond to the initial survey invitation will be given reminders to complete the survey over the duration of the survey implementation period. The final reminder will include a link to a single question for SSPs that choose not to complete the survey about why they declined to complete the survey. Given the uncertainties in response rates described above, we are requesting enough burden hours to allow at least 80% of SSPs to respond to this question. We estimate that it will take two minutes to respond to this question.

The total estimated annual burden hours are 296. There are no other costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (hours)
All participating SSPs	Survey Y1 and Survey Y2–3	480	1	35/60
Non-responding SSPs	Non-Response Survey Item	480	1	2/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–15226 Filed 7–16–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2021–0070]

Advisory Committee on Immunization Practices (ACIP)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), announces the following meeting of the Advisory Committee on Immunization Practices (ACIP). This meeting is open to the public. The meeting will be webcast live via the World Wide Web. Time will be available for public comment. A notice of this ACIP meeting has also been posted on CDC's ACIP website at: *http://www.cdc.gov/vaccines/acip/index.html.* In addition, CDC has sent notice of this ACIP meeting by email to those who subscribe to receive email updates about ACIP.

DATES: The meeting will be held on July 22, 2021, from 11:00 a.m. to 4:00 p.m., EDT (dates and times subject to change), see the ACIP website for updates: *http://www.cdc.gov/vaccines/acip/index.html.* The public may submit written comments from July 19, 2021 through July 22, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0070 by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H24–8, Atlanta, Georgia 30329–4027, Attn: July 22, 2021 ACIP Meeting.

Instructions: All submissions received must include the Agency name and Docket Number. All relevant comments received in conformance with the *https://www.regulations.gov* suitability policy will be posted without change to *https://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, 1600 Clifton Road NE, MS–H24–8, Atlanta, Georgia 30329–4027; Telephone: (404) 639–8367; Email: *ACIP@cdc.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 41 CFR 102–3.150(b), less than 15 calendar days' notice is being given for this meeting due to the exceptional circumstances of the COVID–19 pandemic and rapidly

evolving COVID–19 vaccine development and regulatory processes. The Secretary of Health and Human Services has determined that COVID–19 is a Public Health Emergency. A notice of this ACIP meeting has also been posted on CDC's ACIP website at: *http://www.cdc.gov/vaccines/acip/index.html.* In addition, CDC has sent notice of this ACIP meeting by email to those who subscribe to receive email updates about ACIP.

Purpose: The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been approved by the Director of the Centers for Disease Control and Prevention and appear on CDC immunization schedules must be covered by applicable health plans.

Matters To Be Considered: The agenda will include discussions on COVID–19 vaccine safety. Agenda items are subject to change as priorities dictate. For more information on the meeting agenda visit *https://www.cdc.gov/vaccines/acip/meetings/meetings-info.html.*

Meeting Information: The meeting will be webcast live via the World Wide Web; for more information on ACIP please visit the ACIP website: *http://www.cdc.gov/vaccines/acip/index.html.*

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket.

Written Public Comment: Written comments must be received on or before July 22, 2021.

Oral Public Comment: This meeting will include time for members of the public to make an oral comment. Oral public comment will occur before any scheduled votes including all votes relevant to the ACIP's Affordable Care Act and Vaccines for Children Program roles. Priority will be given to individuals who submit a request to make an oral public comment before the meeting according to the procedures below.

Procedure for Oral Public Comment: All persons interested in making an oral public comment at the July 22, 2021, ACIP meeting must submit a request at *http://www.cdc.gov/vaccines/acip/meetings/* no later than 11:59 p.m., EDT, July 20, 2021, according to the instructions provided.

If the number of persons requesting to speak is greater than can be reasonably accommodated during the scheduled time, CDC will conduct a lottery to determine the speakers for the scheduled public comment session. CDC staff will notify individuals regarding their request to speak by email by 12:00 p.m., EDT, July 21, 2021. To accommodate the significant interest in participation in the oral public comment session of ACIP meetings, each speaker will be limited to 3 minutes, and each speaker may only speak once per meeting.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–15322 Filed 7–14–21; 4:15 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–21–21GO; Docket No. CDC–2021–0068]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Evaluating the use of EHMRs in health settings to improve organizational implementation and worker adoption during and after the COVID–19 pandemic. NIOSH proposes using surveys and interviews to understand how elastomeric half mask respirators (EHMRs) are being perceived and used by healthcare and first responder settings during the COVID–19 pandemic.

DATES: CDC must receive written comments on or before September 17, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0068 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

*Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger,

Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
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; and
5. Assess information collection costs.

Proposed Project

Evaluating the use of EHMRs in health settings to improve organizational implementation and worker adoption during and after the COVID–19 pandemic—New—National Institute of Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC/NIOSH is requesting approval of a new data collection for a period of two years under the project titled ''Evaluating the use of EHMRs in health settings to improve organizational implementation and worker adoption during and after the COVID–19 pandemic.'' The data collection activities were initiated under the Public Health Emergency PRA waiver. NIOSH has the responsibility to conduct research relating to innovative methods, techniques, and approaches dealing with occupational safety and health problems. Additionally, OSHA's Emergency Temporary Standard (ETS) for COVID–19 in Healthcare released in June 2021 (29 CFR 1910, Subpart U) is facilitating the need for this work. Finally, during the nationwide shortage of filtering facepiece respirators (FFRs), the Food and Drug Administration (FDA) issued an emergency use authorization (EUA), allowing the use of all NIOSH-approved respiratory protective devices in healthcare settings during the pandemic—of which elastomeric half mask respirators (EHMRs) were included (85 FR 17335, March 27, 2020). This EUA was provided for alternative FFR use in healthcare settings to prevent wearer (*i.e.,* worker) exposure to airborne particulates because of the COVID–19 pandemic and the life-threatening illness it can cause (FDA, 2020).

Currently, organizations are being confronted with the use of new respiratory protection and questions on how to best support its implementation during the pandemic. To that end, the purpose of this demonstration research study is to assess the integration of EHMRs in various healthcare and first responder settings and subsequently update and enhance EHMR best practices and implementation guidelines to encourage adoption and consequently, reduce PPE supply shortages during the current and future pandemics.

This project is supported through a NIOSH **Federal Register** Notice (FRN) that posted in September 2020, titled, ''A National Elastomeric Half Mask Respirator (EHMR) Strategy for Use in Healthcare Settings During an Infectious Disease Outbreak/Pandemic.''—Vol. 85, No. 178. The announcement requested information regarding the deployment and use of EHMRs in healthcare settings and first responder organizations during the COVID–19 crisis.

This proposed study involves conducting surveys and interviews. Individual workers who receive EHMRs from their organization will have the option to voluntarily participate in a pre-/post-survey. Voluntary data collection at the organizational level with members of management will occur using an interview format that follows a semi-structured approach to capture information throughout the duration of NIOSH's research study. Individual workers (via surveys) and organization management (via interviews) will participate in data collection activities over a period of approximately 4–9 months to assess perceptions, knowledge, attitudes, and experiences using EHMRs as well as best practices for adoption and implementation of EHMRs at their organizations. Individuals who are asked to respond are those who notified NIOSH of their interest of participating in the study. Respondents are expected to include a variety of job types including industrial hygienists, occupational health professionals, infection control professionals, physicians, nurse practitioners, nurses, infection preventionists, fire department chiefs, battalion chiefs, sheriffs, shift supervisors, firefighters, police officers, and paramedics.

A multi-site approach is necessary to answer and further validate findings related to the study objectives. By conducting several studies at healthcare and first responder locations, NIOSH researchers can make the case for research progression, which enhances the reliability and validity of any revised guidance.

NIOSH requests approval for a total of 42,877 estimated burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Organizational manager/POC	Informed Consent	150	3	5/60	38
	Time 1 Interview	150	1	45/60	113
	Time 2 Interview	150	1	45/60	113
	Time 3 Interview	150	1	45/60	113

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Individual Healthcare/First Responder	Informed Consent	51,000	2	5/60	8,500
	Baseline Survey	51,000	1	20/60	17,000
	Follow-up Survey	51,000	1	20/60	17,000
Total					42,877

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–15228 Filed 7–16–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–21–1244; Docket No. CDC–2021–0063]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on an Extension of a previously approved information collection project titled Assessment of Occupational Injury among Fire Fighters Using a Follow-back Survey. The purpose of this project is to collect follow-back telephone interview data from injured and exposed firefighters treated in emergency departments (EDs) and produce a descriptive summary of these injuries and exposures.

DATES: CDC must receive written comments on or before September 17, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0063 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
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; and
5. Assess information collection costs.

Proposed Project

Assessment of Occupational Injury among Fire Fighters Using a Follow-back Survey (OMB Control No. 0920–1244)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Studies have reported that firefighters have high rates of non-fatal injuries and illnesses as compared to the general worker population. As firefighters perform critical public safety activities and protect the safety and health of the public, it follows that understanding and preventing injuries and exposures among firefighters will have a benefit reaching beyond the workers to the public.

As mandated in the Occupational Safety and Health Act of 1970 (Pub. L. 91–596), the mission of NIOSH is to conduct research and investigations on occupational safety and health. Related to this mission, the purpose of this project is to conduct research that will provide a detailed description of non-fatal occupational injuries and exposures incurred by firefighters. This information will offer detailed insight into events that lead to the largest number of nonfatal injuries and exposures among firefighters. The project will use two related data sources. The first source is data abstracted from medical records of firefighters treated in a nationally stratified sample of emergency

departments. These data are routinely collected through the occupational supplement to the National Electronic Injury Surveillance System (NEISS-Work). The second data source, for which NIOSH is seeking OMB approval, is responses to telephone interview surveys of the injured and exposed firefighters identified within NEISS-Work.

The proposed one-year extension of the telephone interview surveys will supplement NEISS-Work data with a description of firefighter injuries and exposures, including worker characteristics, injury types, injury circumstances, injury outcomes, and use of personal protective equipment (PPE). Previous reports describing occupational injuries and exposures to firefighters provide limited details on specific regions or sub-segments of the population. As compared to these earlier studies, the scope of the telephone interview data will be broader, as it includes sampled cases nationwide, and has no limitations regarding type of employment (*i.e.,* volunteer versus career). Results from telephone interviews will be analyzed and reported as a case series.

The sample size for the telephone interview survey is estimated to be approximately 35 firefighters annually. This is based on the current survey completion rate of about 11%. While this completion rate is lower than originally expected, the project team still expects to gain additional insight to injuries and exposures that firefighters incur.

The NIOSH Division of Safety Research (DSR) is conducting this project. DSR has a strong interest in improving surveillance of firefighter injuries and exposures, to provide the information necessary for effectively targeting and implementing prevention efforts, and consequently reducing occupational injuries and exposures to firefighters. The Consumer Product Safety Commission (CPSC) will also contribute to this project, as they are responsible for coordinating the collection of all NEISS-Work data, and for overseeing the collection of all telephone interview data.

NIOSH request approval for an estimated 18 burden hours annually. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Firefighters	Firefighter Follow-Back Survey	35	1	30/60	18
Total					18

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–15230 Filed 7–16–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–21–21DJ]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Assessment of a Training Program to Improve Continuity of Care for Children and Families Affected by Fetal Alcohol Spectrum Disorders (FASD) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on March 8, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Assessment of a Training Program to Improve Continuity of Care for Children and Families Affected by Fetal Alcohol Spectrum Disorders (FASD)—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this information collection is to assess a curriculum for training pediatric residents to identify, refer and care for children with prenatal exposure to alcohol or a fetal alcohol spectrum disorder (FASD). The curriculum was developed by the

American Academy of Pediatrics (AAP) with support from CDC. The curriculum uses a Train-the-Trainer model whereby attending physicians at developmental continuity clinics receive in-depth training and then facilitate training of first-year pediatric residents in their own clinics.

In Phase One, training for attending physicians will be organized around four presentations by experts in the identification, diagnosis, and care of children with FASD and their families. Pre/post-test assessments will be obtained for each presentation, followed by an overall assessment at the end of the training day.

In Phase Two, the attending physicians will implement a curriculum of continuing medical education activities with their first-year pediatric residents. Required activities for residents include viewing three pre-recorded video presentations. Changes in residents' knowledge of training content will be assessed both before and after the video presentations.

Pre/post-test data will be collected through paper-and-pencil surveys for in-person training of attending physicians, and by secure email for resident trainees. Attending physicians will also be asked to participate in a final project debriefing conference call.

The purpose and use of the assessment data will be to assure that specific information in the FASD training curriculum is conveyed and understood by participants. The public health goal is to strengthen the identification, referral, and care of children with prenatal exposure to alcohol.

OMB approval is requested for three years. Approximately 10 clinics will be recruited each year. Respondents will be one attending physician per clinic, and approximately 25 pediatric residents per clinic. Participation is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden is 223 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)
Pediatrician (Attending Physician)	Attending Physicians Screening & Diagnosis Pretest	10	1	10/60
	Attending Physicians Screening & Diagnosis Posttest	10	1	10/60
	Attending Physicians Treatment Across Lifespan Pre-test.	10	1	10/60
	Attending Physicians Treatment Across Lifespan Posttest.	10	1	10/60
	Attending Physicians Overcoming Social Attitudes Pretest.	10	1	10/60
	Attending Physicians Overcoming Social Attitudes Posttest.	10	1	10/60
	Attending Physicians Educational Care Pretest	10	1	10/60
	Attending Physicians Educational Care Posttest	10	1	10/60
	Attending Physicians Training Program Assessment	10	1	15/60
	Attending Physicians Overall Program Assessment	10	1	20/60
	Attending Physicians Debriefing Guide	10	1	1
	Attending Physicians Application (A15)	10	1	10/60
Pediatrician (Resident)	Resident Overall Effects & Prevalence Video Pretest	250	1	15/60
	Resident Overall Effects & Prevalence Video Posttest	250	1	15/60
	Resident Overall Program Assessment	250	1	15/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–15227 Filed 7–16–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Guidance for Cilastatin Sodium; Imipenem; Relebactam; Draft Guidance for Industry; Availability

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

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Draft Guidance for Cilastatin Sodium; Imipenem; Relebactam.'' The draft guidance, when finalized, will provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for cilastatin sodium; imipenem; relebactam for injection.

DATES: Submit either electronic or written comments on the draft guidance by September 17, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the

public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2007–D–0369 for ''Draft Guidance for Cilastatin Sodium; Imipenem; Relebactam.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Christine Le, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4714, Silver Spring, MD 20993–0002, 301–796–2398 and/or *PSG-QUESTIONS@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific guidances available to the public on FDA's website at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs.*

As described in that guidance, FDA adopted this process to develop and disseminate product-specific guidances and to provide a meaningful opportunity for the public to consider and comment on the guidances. This notice announces the availability of a draft guidance on a generic Cilastatin Sodium; Imipenem; Relebactam for injection.

FDA initially approved new drug application 212819 RECARBRIO (cilastatin sodium; imipenem; relebactam for injection) in July 2019. We are now issuing a draft guidance for industry on generic cilastatin sodium; imipenem; relebactam for injection (''Draft Guidance on Cilastatin Sodium; Imipenem; Relebactam'').

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on, among other things, the design of BE studies to support ANDAs for cilastatin sodium; imipenem; relebactam for injection. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: July 12, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–15170 Filed 7–16–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of

Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on June 1, 2021, through June 30, 2021. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Diana Espinosa,

Acting Administrator.

List of Petitions Filed

1. Kelly Hannon, Washington, District of Columbia, Court of Federal Claims No: 21–1304V
2. Margaret Hoyt, Washington, District of Columbia, Court of Federal Claims No: 21–1305V
3. Sarah Lopez, Washington, District of Columbia, Court of Federal Claims No: 21–1306V
4. Lydia M. Goode, Greensboro, North Carolina, Court of Federal Claims No: 21–1307V
5. Jonathan Jarog, Chicago, Illinois, Court of Federal Claims No: 21–1308V
6. Chad Adaway, Birmingham, Alabama, Court of Federal Claims No: 21–1311V
7. John Buen, Boston, Massachusetts, Court of Federal Claims No: 21–1314V
8. Robert Ben, Colorado Springs, Colorado, Court of Federal Claims No: 21–1315V
9. David Plaut, Fort Collins, Colorado, Court of Federal Claims No: 21–1316V
10. Ciara Johnson, Durango, Colorado, Court of Federal Claims No: 21–1317V
11. Lindsay Walker on behalf of R.W., Aurora, Colorado, Court of Federal Claims No: 21–1318V
12. Dana Hilden, Phoenix, Arizona, Court of Federal Claims No: 21–1321V
13. Debbie L. Tice, Jackson, Mississippi, Court of Federal Claims No: 21–1322V
14. Rhonda Boyd, Huntsville, Alabama, Court of Federal Claims No: 21–1323V
15. Janice Walker, Ventura, California, Court of Federal Claims No: 21–1325V
16. Mary Patricia Turner, Washington, District of Columbia, Court of Federal Claims No: 21–1327V
17. Kara Mahuron, Washington, District of Columbia, Court of Federal Claims No: 21–1328V
18. Estate of James Leroy Doebler, Deceased, Pascagoula, Mississippi, Court of Federal Claims No: 21–1331V
19. Marlena Lloyd and Jeffrey Lloyd on behalf of C.L., Boston, Massachusetts, Court of Federal Claims No: 21–1332V
20. Keith Montague, Boston, Massachusetts, Court of Federal Claims No: 21–1333V
21. Daniel Murphy, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–1334V
22. Jennifer Huch and Lucas Huch on behalf of L.L.L.H., Bedford, Texas, Court of Federal Claims No: 21–1335V
23. Michelle Gill on behalf of A.G., Phoenix, Arizona, Court of Federal Claims No: 21–1336V
24. Thomas Burbank, Plainville, Connecticut, Court of Federal Claims No: 21–1337V
25. Clifton Foley and Kelli Foley on behalf of N.F., Deceased, Burlington, North Carolina, Court of Federal Claims No: 21–1338V
26. Juanita Artman, Washington, District of Columbia, Court of Federal Claims No: 21–1340V
27. Ramon K. Jusino and Ann M. Jusino on behalf of W.J., Staten Island, New York, Court of Federal Claims No: 21–1342V
28. Nardia Thompson Harris, Nanuet, New York, Court of Federal Claims No: 21–1345V
29. Michael Williamson, Murfreesboro, Tennessee, Court of Federal Claims No: 21–1346V
30. John Allain, Sulphur, Louisiana, Court of Federal Claims No: 21–1349V
31. Jennifer Clark, Chattanooga, Tennessee, Court of Federal Claims No: 21–1350V
32. Robert Silver, Shelby, North Carolina, Court of Federal Claims No: 21–1351V
33. Kelsey Hamonds, Edgewood, Kentucky, Court of Federal Claims No: 21–1352V
34. Mindy Schuehrer, Marie, Michigan, Court of Federal Claims No: 21–1353V
35. Hortencia Torres, Annandale, Virginia, Court of Federal Claims No: 21–1356V

36. Laurel Bennett, Washington, District of Columbia, Court of Federal Claims No: 21–1357V
37. Marie Tully, Washington, District of Columbia, Court of Federal Claims No: 21–1358V
38. Donna Fulbright, Washington, District of Columbia, Court of Federal Claims No: 21–1359V
39. Jovonna Beyer, New York, New York, Court of Federal Claims No: 21–1362V
40. Richard Munoz, Plant City, Florida, Court of Federal Claims No: 21–1369V
41. Josephine Feitel, Georgetown, Texas, Court of Federal Claims No: 21–1370V
42. Austin Reid, Louisville, Kentucky, Court of Federal Claims No: 21–1374V
43. Elizabeth Fellows, Kansas City, Missouri, Court of Federal Claims No: 21–1378V
44. Stephen R. Hunt, Athens, Ohio, Court of Federal Claims No: 21–1379V
45. Raymond Milligan, Jr., Sulphur Springs, Texas, Court of Federal Claims No: 21–1382V
46. Tina Paxson, Bloomington, Indiana, Court of Federal Claims No: 21–1383V
47. Rashawnda L. Benton, Greensboro, North Carolina, Court of Federal Claims No: 21–1384V
48. Jerome Dacurawat, Alexandria, Virginia, Court of Federal Claims No: 21–1389V
49. Krystal Kilgore, Morristown, Tennessee, Court of Federal Claims No: 21–1390V
50. Jeffrey A. Ridenour, Lima, Ohio, Court of Federal Claims No: 21–1392V
51. Lori Kathleen Ogden Erickson, Milton, Washington, Court of Federal Claims No: 21–1395V
52. Angela Saporito, Nutley, New Jersey, Court of Federal Claims No: 21–1398V
53. Shawn Wilson-Blount, White Plains, New York, Court of Federal Claims No: 21–1400V
54. Geeta Karra, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–1402V
55. Jonathan Charter, Manchester, Connecticut, Court of Federal Claims No: 21–1404V
56. Tammy Walden on behalf of J.F., Phoenix, Arizona, Court of Federal Claims No: 21–1406V
57. Bruce A. Ades, Denver, Colorado, Court of Federal Claims No: 21–1407V
58. Wendy O'Neil, Englewood, New Jersey, Court of Federal Claims No: 21–1410V

[FR Doc. 2021–15223 Filed 7–16–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OMB #0990–0475]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before September 17, 2021.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–0475–60D and project title for reference, to Sherrette A. Funn, email: *Sherrette.Funn@hhs.gov,* or call (202) 795–7714 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: ASPA COVID–19 Public Education Campaign Evaluation Surveys.

Type of Collection: Extension.

OMB No.: 0990–0475.

Abstract: The Office of the Assistant Secretary for Public Affairs (ASPA), U.S. Department of Health and Human Services (HHS) is requesting an extension on a currently approved collection including two components: 1. COVID–19 Attitudes and Beliefs Survey (CABS), and 2. Monthly Outcome Survey (MOS). Throughout execution of the campaign, this information will primarily be used by ASPA to determine whether the campaign is having the intended impact on target audiences' knowledge, attitudes, and beliefs as they relate to COVID–19, COVID–19 vaccination, and adherence to preventative behaviors. It will also keep key stakeholders informed of the Campaign's progress. Ultimately, the data will inform a thorough evaluation of the efficacy of the campaign and its impact on vaccine uptake.

COVID–19 Attitudes and Beliefs Survey (CABS)

The CABS is a longitudinal survey that will be fielded tri-annually to 4,000 U.S. adults over two years (six waves) via NORC at the University of Chicago's AmeriSpeak Panel. The survey will be fielded online, and each fielding period will last between 3 and 6 weeks. Those that respond to wave 1 of the survey will be recontacted in each wave, facilitating a comparison of COVID–19 behavior change over time for a representative sample and evaluation of U.S. adults. Panel members selected to participate in the study will receive one pre-invitation postcard in the mail, one email invitation, and three email reminders to complete the survey in each wave.

Monthly Outcome Survey (MOS)

The MOS is a cross-sectional survey that will be fielded monthly to 5,000 U.S. adults over two years (24 waves) via the Ipsos KnowledgePanel 5K Omnibus Survey. The survey will be fielded online, and each fielding period will last between 7 and 10 days.

ANNUALIZED BURDEN HOUR TABLE

	CABS	MOS
Hours to complete survey	0.58	0.17
Participants (per wave)	4,000	5,000
Number of waves (per year)	3	12
Total respondents per year	12,000	60,000
Total burden hours per year	6,960	10,200

Sum of Both Studies

Total respondents per year: 72,000.

Total burden hours per year: 17,160.

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2021–15172 Filed 7–16–21; 8:45 am]

BILLING CODE 4150–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute Of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel: Mechanism for Time-Sensitive Research Opportunities in Environmental Health Sciences (R21).

Date: August 12, 2021.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Alfonso R. Latoni, Ph.D., Chief and Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 984–287–3279, *alfonso.latoni@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 14, 2021.

David W Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–15312 Filed 7–16–21; 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 Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: September 9, 2021.

Closed: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: September 10, 2021.

Open: 11:00 a.m. to 4:00 p.m.

Agenda: Opening Remarks, Administrative Matters, Director's Report, Presentations, and Other Business of the Council.

Place: National Institutes of Health, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas M. Vollberg, Sr., Ph.D., Director, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Boulevard, Suite 800, Bethesda, Maryland 20892–5465, 301–402–1366, *Thomas.Vollberg@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: NIMHD: *https://www.nimhd.nih.gov/about/advisory-council/,* where an agenda and any additional information for the meeting will be posted when available.

Dated: July 14, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–15311 Filed 7–16–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Instrumentation.

Date: August 12, 2021.

Time: 2:00 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: Joonil Seog, SCD Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–9791, *joonil.seog@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: July 13, 2021.

David W Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–15201 Filed 7–16–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–0361.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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.

Proposed Project: Division of State Programs—Management Reporting Tool (DSP–MRT) (OMB No. 0930–0354)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) aims to monitor several substance use prevention programs through the DSP–MRT, which reports data using the Strategic Prevention Framework (SPF). Programs monitored through the DSP–MRT include: SPF-Partnerships for Success (PFS), SPF-Prescription Drugs (Rx), Prescription Drug Overdose (PDO), and First Responder-Comprehensive Addiction and Recovery Act (FR–CARA). SAMHSA also proposed adding a new program: Sober Truth on Preventing Underage Drinking Act Grants (STOP Act). This request for data collection includes a revision from a previously approved OMB instrument.

Monitoring data using the SPF model will allow SAMHSA's project officers to systematically collect data to monitor their grant program. In addition to assessing activities related to the SPF steps, the performance monitoring instruments covered in this statement collect data to assess the following grantee required specific performance measures:

- Number of training and technical assistance activities per funded community provided by the grantee to support communities
- Number of training and technical assistance activities (numbers served) provided by the grantee
- Number of subrecipient communities that improved on one or more targeted National Outcome Measures
- Number of grantees who integrate Prescription Drug Monitoring Program (PDMP) data into their program needs assessment
- Number of naloxone toolkits distributed

Changes to this package include the following:

- Inclusion of six performance targets
- Removal of outdated references
- Adjustments to the language in the Disparities Impact Section to refine response.

ANNUALIZED DATA COLLECTION BURDEN

Instrument	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours	Average hourly wage	Total respondent cost [a]
DSP–MRT	521	4	2,084	3	6,252	$44.19	$276,276
PFS Supplemental	253	1	253	1	253	44.19	11,180
PDO/FR CARA Supplemental	109	2	218	1	218	44.19	9,633
SPF Rx Supplemental	26	4	104	1	104	44.19	4,596
STOP Act Supplemental (new)	133	1	133	1	133	44.19	5,877
FY2021–FY2024 Total	521				6,960		307,562

Send comments to Carlos Graham, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57A, Rockville, Maryland 20857, *OR* email a copy to *carlos.graham@samhsa.hhs.gov.* Written comments should be received by September 17, 2021.

Carlos Graham,

Social Science Analyst.

[FR Doc. 2021–15293 Filed 7–16–21; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–0361 or *carlos.graham@samhsa.hhs.gov.*

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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 the use of automated collection techniques or other forms of information technology.

Proposed Project: Survey of State Underage Drinking Prevention Policies, Programs, and Practices—(OMB No. 0930–0316)—Extension

The *Sober Truth on Preventing Underage Drinking Act* (the ''STOP Act'') (Pub. L. 109–422, reauthorized in 2016 by Pub. L. 114–255) states that the ''Secretary [of Health and Human Services] shall . . . annually issue a report on each state's performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.'' The Secretary has delegated responsibility for this report to SAMHSA. Therefore, SAMHSA has developed a *Survey of State Underage Drinking Prevention Policies, Programs, and Practices* (the ''*State Survey*'') to provide input for the state-by-state report on prevention and enforcement activities related to the underage drinking component of the *Annual Report to Congress on the Prevention and Reduction of Underage Drinking* (''*Report to Congress*'').

The STOP Act also requires the Secretary to develop ''a set of measures to be used in preparing the report on best practices'' and to consider categories including but not limited to the following:

Category #1: Sixteen specific underage drinking laws/regulations enacted at the state level (*e.g.,* laws prohibiting sales to minors; laws related to minors in possession of alcohol). Note that ten additional policies have been added to the *Report to Congress* pursuant to Congressional appropriations language or the Secretary's authority granted by the STOP Act;

Category #2: Enforcement and educational programs to promote compliance with these laws/regulations;

Category #3: Programs targeted to youths, parents, and caregivers to deter underage drinking and the number of individuals served by these programs;

Category #4: The amount that each state invests, per youth capita, on the prevention of underage drinking broken into five categories: (a) Compliance check programs in retail outlets; (b) checkpoints and saturation patrols that include the goal of reducing and deterring underage drinking; (c) community-based, school-based, and higher-education-based programs to prevent underage drinking; (d) underage drinking prevention programs that target youth within the juvenile justice and child welfare systems; and (e) any other state efforts or programs that target underage drinking.

Congress' purpose in mandating the collection of data on state policies, programs, and practices through the *State Survey* is to provide policymakers and the public with otherwise unavailable but much needed information regarding state underage drinking prevention policies and programs. SAMHSA and other federal agencies that have underage drinking prevention as part of their mandate use the results of the *State Survey* to inform federal programmatic priorities, as do other stakeholders, including community organizations. The information gathered by the *State Survey* has established a resource for state agencies and the general public for assessing policies and programs in their own state and for becoming familiar with the policies, programs, practices, and funding priorities of other states.

Because of the broad scope of data required by the STOP Act, SAMHSA relies on existing data sources where possible to minimize the survey burden on the states. SAMHSA uses data on state underage drinking policies from the National Institute of Alcohol Abuse and Alcoholism's Alcohol Policy Information System (APIS), an authoritative compendium of state alcohol-related laws. The APIS data is augmented by SAMHSA with original legal research on state laws and policies addressing underage drinking to include all of the STOP Act's requested laws and regulations (Category #1 of the four categories included in the STOP Act, as described above, page 2).

The STOP Act mandates that the *State Survey* assess ''best practices'' and emphasize the importance of building collaborations with federally recognized tribal governments (''tribal governments''). It also emphasizes the importance at the federal level of promoting interagency collaboration and to that end establishes the Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD). SAMHSA has determined that to fulfill the Congressional intent, it is critical that the *State Survey* gather information from the states regarding the best practices standards that they apply to their underage drinking programs, collaborations between states and tribal governments, and the development of state-level interagency collaborations similar to ICCPUD.

SAMHSA has determined that data on Categories #2, #3, and #4 mandated in the STOP Act (as listed on page 2) (enforcement and educational programs; programs targeting youth, parents, and caregivers; and state expenditures) as well as states' best practices standards, collaborations with tribal governments, use of social marketing or counter-advertising campaigns, and state-level interagency collaborations *are not available from secondary sources* and therefore must be collected from the states themselves. The *State Survey* is therefore necessary to fulfill the Congressional mandate found in the STOP Act. Furthermore, the uniform collection of these data from the states over the last ten years has created a valuable longitudinal dataset, and the *State Survey's* renewal is vital to maintaining this resource.

The *State Survey* is a single document that is divided into four sections, as follows:

Section 1: Enforcement programs to promote compliance with underage drinking laws and regulations (as described in Category #2 above);

Section 2A: Programs and media campaigns targeted to youth, parents, and caregivers to deter underage drinking (as described in Category #3 above);

Sections 2B and 2C: State interagency collaboration to implement prevention programs and media campaigns, state best-practice standards, and collaborations with tribal governments (as described above);

Section 2D: The amount that each state invests on the prevention of underage drinking in the categories specified in the STOP Act (see description of Category #4 above) and descriptions of any dedicated fees, taxes, or fines used to raise these funds.

The number of questions in each section is as follows:

Section 1: 38 questions
Section 2A: 15 questions
Section 2B: 12 questions
Section 2C: 10 questions
Section 2D: 10 questions
Total: 85 questions

Note that the number of questions in Section 2A is an estimate. This section asks states to identify up to ten programs that are specific to underage drinking prevention. For each program identified, there are three follow-up questions. Based on the average number of programs per state reported in the *State Survey's* ten-year history, it is anticipated that states will report an average of five programs for a total of 15 questions.

It is anticipated that most respondents will actually respond to only a subset of this total. The *State Survey* is designed with ''skip logic,'' which means that

many questions will only be directed to a subset of respondents who report the existence of particular programs or activities.

No changes in content are proposed for the current version of the *Survey.* Note that the title of the survey has been modified from ''*Survey of State Underage Drinking Prevention Policies and Practices*'' to ''*Survey of State Underage Drinking Prevention Policies, Programs, and Practices*'' to better reflect the subjects addressed by the *State Survey* questions.

To ensure that the *State Survey* obtains the necessary data while minimizing the burden on the states, SAMHSA has conducted a lengthy and comprehensive planning process. It sought advice from key stakeholders (as mandated by the STOP Act) including hosting multiple stakeholders' meetings, conducting two field tests with state officials likely to be responsible for completing the *State Survey,* and investigating and testing various *State Survey* formats, online delivery systems, and data collection methodologies.

Based on these investigations, SAMHSA collects the required data using an online survey data collection platform (SurveyMonkey). Links to the four sections of the survey are distributed to states via email. The *State Survey* is sent to each state governor's office and the Office of the Mayor of the District of Columbia. Based on the experience from the last ten years of administering the *State Survey,* it is anticipated that the state governors will designate staff from state agencies that have access to the requested data (typically state Alcohol Beverage Control [ABC] agencies and state Substance Abuse Program agencies). SAMHSA provides both telephone and electronic technical support to state agency staff and emphasizes that the states are expected to provide data from existing state databases and other data sources available to them. The burden estimate below takes into account these assumptions.

The estimated annual response burden to collect this information is as follows:

Instrument	Number of respondents	Responses/ respondent	Burden/ response (hrs)	Annual burden (hrs)
State Survey	51	1	17.7	902.7

Send comments to Carlos Graham, SAMHSA Reports Clearance Officer at *carlos.graham@samhsa.hhs.gov.* Written comments should be received by September 17, 2021.

Carlos Graham,

Social Science Analyst.

[FR Doc. 2021–15294 Filed 7–16–21; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA–2021–0011]

Notice of Cancellation of the President's National Infrastructure Advisory Council Meeting

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: Notice of cancellation of a Federal Advisory Committee Act (FACA) meeting.

SUMMARY: CISA announces the cancellation of the public meeting of the President's National Infrastructure Advisory Council (NIAC) scheduled for July 23, 2021.

DATES: This meeting was announced in the **Federal Register** on June 16, 2021 (86 FR 32053).

FOR FURTHER INFORMATION CONTACT: Rachel Liang, *Rachel.Liang@cisa.dhs.gov;* 202–936–8300.

SUPPLEMENTARY INFORMATION: CISA gives notice under the Federal Advisory Committee Act, 5 U.S.C. app. 2, that the virtual meeting of the President's National Infrastructure Advisory Council set to be held on July 23, 2021 has been cancelled.

Rachel Liang,

Designated Federal Officer, President's National Infrastructure Advisory Council, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

[FR Doc. 2021–15206 Filed 7–16–21; 8:45 am]

BILLING CODE 9110–9P–P

INTER-AMERICAN FOUNDATION

60-Day Notice for Assessing Post-Disaster Needs Across IAF Grantees (PRA)

AGENCY: Inter-American Foundation.

ACTION: Notice.

SUMMARY: The Inter-American Foundation (IAF), as part of its continuing efforts to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps ensure that requested data is provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents is properly assessed.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Raquel Gomes, Inter-American Foundation, via email to *rgomes@iaf.gov* and Jenna Glickman, Inter-American Foundation, via email to *jglickman@iaf.gov.*

SUPPLEMENTARY INFORMATION: Natural disasters and shocks, such as hurricanes, earthquakes, and pandemics, tend to be especially harmful for low-income and marginalized populations. IAF grantees across Latin America and the Caribbean often serve as early responders in times of crises, helping their communities cope with the impacts of disasters and shocks. The IAF seeks to have the ability to survey grantees that may be impacted by disasters and shocks to quickly assess how the agency can better support them during such times.

The IAF is particularly interested in comments which:

—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;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Can help 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 responses.

A Notice by the Inter-American Foundation on July 13, 2021.

Aswathi Zachariah,

General Counsel.

[FR Doc. 2021–15214 Filed 7–16–21; 8:45 am]

BILLING CODE 7025–01–P

INTER-AMERICAN FOUNDATION

60-Day Notice for Assessing Needs Across IAF Grantees in the Northern Triangle (PRA)

AGENCY: Inter-American Foundation.

ACTION: Notice.

SUMMARY: The Inter-American Foundation (IAF), as part of its continuing efforts to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps ensure that requested data is provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents is properly assessed.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Raquel Gomes, Inter-American Foundation, via email to *rgomes@iaf.gov* and Jenna Glickman, Inter-American Foundation, via email to *jglickman@iaf.gov.*

SUPPLEMENTARY INFORMATION: The IAF is seeking to learn from its experience in funding grantees across El Salvador, Guatemala, and Honduras (the ''Northern Triangle) in recent years. The agency has performance monitoring data across the Northern Triangle that reflects how well individual grantees are implementing their projects toward desired outcomes. The IAF seeks to understand how the agency can further improve its support through a grantee survey as they seek to generate alternatives to forced migration. Having this systematic information will help guide IAF decisions on how to better support these efforts in the Northern Triangle.

The IAF is particularly interested in comments which:

—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;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Can help 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 responses.

A Notice by the Inter-American Foundation on July 13, 2021.

Aswathi Zachariah,

General Counsel.

[FR Doc. 2021–15210 Filed 7–16–21; 8:45 am]

BILLING CODE 7025–01–P

INTER-AMERICAN FOUNDATION

60-Day Notice for Updates From IAF Grantees on COVID–19 Ramifications (PRA)

AGENCY: Inter-American Foundation.

ACTION: Notice.

SUMMARY: The Inter-American Foundation (IAF), as part of its continuing efforts to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps ensure that requested data is provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents is properly assessed.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Raquel Gomes, Inter-American Foundation, via email to *rgomes@iaf.gov* and Jenna Glickman, Inter-American Foundation, via email to *jglickman@iaf.gov.*

SUPPLEMENTARY INFORMATION: IAF grantees across Latin America and the Caribbean continue experiencing the ramifications of COVID–19 in their communities. The IAF plans to survey its grantees to better understand how COVID–19 continues impacting their communities and their grant-supported efforts. This information will inform IAF's decision-making on how to continue supporting COVID–19-specific grants and amendments.

The IAF is particularly interested in comments which:

—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;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Can help 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 responses.

A Notice by the Inter-American Foundation on July 13, 2021.

Aswathi Zachariah,

General Counsel.

[FR Doc. 2021–15207 Filed 7–16–21; 8:45 am]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2021–N173; FF09F42300 FVWF97920900000 XXX]

Sport Fishing and Boating Partnership Council; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference/web meeting.

SUMMARY: The U.S. Fish and Wildlife Service gives notice of a teleconference/web meeting of the Sport Fishing and

Boating Partnership Council (Council), in accordance with the Federal Advisory Committee Act.

DATES:

Teleconference/Web Meeting: The Council will meet via teleconference and broadcast over the internet on Wednesday, August 4, 2021, from 12 p.m. to 4 p.m. Eastern Time, and Thursday, August 5, 2021, from 12 p.m. to 3 p.m. Eastern Time. The meeting is open to the public, except for on August 4, between 12 p.m. and 12:40 p.m., when members will attend an ethics training session.

Registration: Registration is required. The deadline for registration is August 2, 2021.

Accessibility: The deadline for accessibility accommodation requests is July 30, 2021. Please see *Accessibility Information*, below.

ADDRESSES: The meeting will be held via teleconference and broadcast over the internet. To register and receive the web address and telephone number for participation, contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Tom McCann, Designated Federal Officer, by email at *thomas_mccann@fws.gov,* by telephone at 703–358–2056, by telecommunication device for the deaf (TDD) via the Federal Relay Service at 800–877–8339, or by U.S. mail at the U.S. Fish and Wildlife Service, MS:3C016A–FAC, 5275 Leesburg Pike, Falls Church, Virginia 22041–3803.

SUPPLEMENTARY INFORMATION: Established in 1993, the Council advises the Secretary of the Interior, through the Director of the U.S. Fish and Wildlife Service, on aquatic conservation endeavors that benefit recreational fishery resources and recreational boating and that encourage partnerships among industry, the public, and government.

Meeting Agenda

- Administrative business/member ethics training
- Program updates from:
  - U.S. Fish and Wildlife Service (USFWS) Fish and Aquatic Conservation
  - USFWS Wildlife and Sport Fish Restoration
  - National Oceanic and Atmospheric Administration
  - Recreational Boating and Fishing Foundation
  - Discuss programmatic assessment
  - Review Council appointments for Board of Directors
- COVID–19 roundtable to discuss impacts on fishing and boating industries and leveraging new enthusiasts
- Other Council business
  - Review subcommittee structure
  - Discuss agenda items for next meeting
- Public comment and adjourn

The final agenda and other related meeting information will be posted on the Council's website, *https://www.fws.gov/sfbpc/.*

Public Input

If you wish to listen to the meeting by telephone, listen and view through the internet, provide oral public comment by phone, or provide a written comment for the Council to consider, contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). Written comments should be received no later than Monday, August 2, 2021, to be considered by the Council during the meeting.

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be limited. Interested parties should contact the Designated Federal Officer, in writing (see **FOR FURTHER INFORMATION CONTACT**), for placement on the public speaker list for this teleconference. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Designated Federal Officer up to 30 days following the meeting. Requests to address the Council during the teleconference will be accommodated in the order the requests are received.

Accessibility Information

Requests for sign language interpretation services, closed captioning, or other accessibility accommodations should be directed to the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) by close of business Friday, July 30, 2021.

Public Disclosure

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.

Authority: Federal Advisory Committee Act (5 U.S.C. Appendix).

David A. Miko,

Acting Assistant Director, Fish and Aquatic Conservation Program, U.S. Fish and Wildlife Service.

[FR Doc. 2021–15200 Filed 7–16–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–NCTC–2021–N035; FXGO16610900600 (212) FF09X35000; OMB Control Number 1018–0176]

Agency Information Collection Activities; Native Youth Community Adaptation and Leadership Congress

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to revise a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before September 17, 2021.

ADDRESSES: Send your comments on the information collection request by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: JAO/1N (PERMA–PRB), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0176 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320, 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: The Service offers eligible Native American, Alaskan Native, and Pacific Islander high school students the opportunity to apply for the Native Youth Community Adaptation and Leadership Congress (Congress). The mission of the Congress is to develop future conservation leaders with the skills, knowledge, and tools to address environmental change and conservation challenges to better serve their schools and home communities. The Congress supports and operates under the following authorities:

- Executive Order (E.O.) 13175, ''Consultation and Coordination With Indian Tribal Governments'' (November 6, 2000);
- E.O. 13515, ''Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs'' (October 14, 2009);
- E.O. 13592, ''Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities'' (December 2, 2011);
- Public Law 116–9, Section 9003, ''John D. Dingell, Jr. Conservation, Management, and Recreation Act'' (March 12, 2019);
- 16 U.S.C. 1727b, Indian Youth Service Corps;
- White House Memorandum on Government-to-Government Relationships with Tribal Governments (September 23, 2004);
- Secretarial Order (S.O.) 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act,'' issued jointly by the Department of the Interior and the Department of Commerce (June 5, 1997);
- S.O. 3317, ''DOI Policy: Department of the Interior Policy on Consultation with Indian Tribes'' (December 1, 2011);
- S.O. 3335, ''Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries'' (August 20, 2014); and
- The Service's Native American Policy (510 FW 1), published January 20, 2016.

The following Federal partners assist and support the Service's administration of the Congress:

- The U.S. Department of the Interior—
  - —Bureau of Indian Affairs;
  - —Bureau of Land Management;
  - —National Park Service; and
  - —United States Geological Survey;
- The U.S. Department of Agriculture—U.S. Forest Service;
- The U.S. Department of Commerce—National Oceanic and Atmospheric Administration;
- The Federal Emergency Management Agency; and
- The National Aeronautics and Space Administration.

The weeklong environmental conference fosters an inclusive, meaningful, and educational opportunity for aspiring Native youth leaders interested in addressing environmental issues facing Native American, Alaskan Native, and Pacific Islander communities. Eligible students—representing a diverse mix of Native communities from various geographic locations, both urban and rural—compete for the opportunity to represent their Native communities from across the country. The students learn about environmental change and conservation while strengthening their leadership skills for addressing conservation issues within their own Native communities.

Through a cooperative agreement with the New Mexico Wildlife Federation (NMWF), the Service solicits and evaluates applications from eligible students interested in applying for the program. The NMWF notifies successful applicants and arranges all travel for them. Information collected from each applicant via an online application administered by the NMWF includes:

- Applicant's full name, contact information, date of birth, and Tribal/community affiliation;
- Emergency contact information for applicant;
- Name and contact information of applicant's mentor;
- Applicant's school name and address;
- Applicant's current grade in school;
- Applicant's participation in extracurricular activities, school clubs, or community organizations;
- Applicant's volunteer experience; and
- Applicant's accomplishments or awards received.

Successful applicants also complete Form 3–2525, ''Native Youth Community Adaptation and Leadership Congress Student Medical Information,'' which collects the following information:

- Student's full name and preferred name;
- Date of birth;
- Age;
- Health insurance policy information;
- Medication information, to include dose and frequency;
- Drug and/or food sensitivities/allergies;
- Medications and immunizations; and
- Pre-existing condition(s).

Each applicant also provides essay responses to questions concerning topics such as environmental issues affecting their home/Tribal community, how or whether the environmental issues are addressed, and/or how, as a Native youth leader, they can lead the community in adapting to a changing environment. Successful applicants must also provide basic medical information to assure their health and safety while on site at the National Conservation Training Center for the Congress. The on-site nurse keeps this information strictly confidential, for use only in an emergency.

Proposed Revisions Requiring OMB Approval

The following forms used with the Congress require OMB approval:

• Form 3–2546, ''Enrollment Form,'' which collects the following information:

—Applicant's full name, address, and contact information;

—Parent/guardian name and contact information;

—Student's age, date of birth, and sex;

—Student's high school year;

—Student's high school name, address, and contact information; and

—Chaperone name.

• Form 3–2547, ''Parental Consent Form,'' which collects the following information:

—Name of student and date of birth;

—Student address, school, grade, and contact information; and

—Student's physician name, address, and contact information.

• Form 3–2548, ''Student Conduct Agreement,'' which collects the following information:

—Student's full name and preferred name;

—Student signature and signature date; and

—Parent/guardian name, signature, and signature date.

• Form 3–2549, ''Mentor Waiver,'' which collects the following information:

—Mentor name;

—Mentor signature and signature date;

—Emergency contact name and contact number.

Title of Collection: Native Youth Community Adaptation and Leadership Congress.

OMB Control Number: 1018–0176.

Form Numbers: Forms 3–2525, 3–2546, 3–2547, 3–2548, 3–2549, and 3–2550.

Type of Review: Revision of a currently approved information collection.

Respondents/Affected Public: Eligible high school or college students interested in applying for the program.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Activity	Total annual responses	Completion time per response	Total annual burden hours
Application (Online)	105	4 Hours	420
Form 3–2525, Student Medical Information	100	30 Mins	50
Form 3–2546, Enrollment Form	100	18 mins	30
Form 3–2547, Parental Consent Form	100	12 Mins	20
Form 3–2548, Student Conduct Agreement	100	12 Mins	20
Form 3–2549, Mentor Waiver	30	12 Mins	6
Totals:	635		576

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.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2021–15173 Filed 7–16–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[WBS Number GX21EF00PMELE00]

Agency Notice of Webinar; Announcement of U.S. Geological Survey (USGS), National Geospatial Program 3D Elevation Program FY21 Informational Training Webinar in Preparation for the Upcoming Release of the USGS Broad Agency Announcement for 3D Elevation Program

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice.

SUMMARY: The U.S. Geological Survey is proposing a program-sponsored informational training webinar to provide scripted training to prospective applicants. This 3D Elevation Program (3DEP) training has been developed to encourage applications from federal agencies, states, tribes, private industry and communities across the nation to support the acquisition of high-quality elevation data and a wide range of other three-dimensional representations of the Nation's natural and constructed features.

DATES: The USGS Broad Agency Announcement (BAA) for 3DEP FY21 Informational Training Webinar will be held on August 11, 2021 1:00–2:30 p.m. ET.

ADDRESSES: Informational training webinar information is available at *https://usgs.gov/3DEP/BAA.*

FOR FURTHER INFORMATION CONTACT: For further information about this webinar contact Diana Thunen by email at *gs_baa@usgs.gov,* or by telephone at (303) 202–4279.

SUPPLEMENTARY INFORMATION: The goal of the 3DEP is to complete acquisition of nationwide lidar (IfSAR in AK) by 2023 to provide the first ever national baseline of consistent high-resolution elevation data—both bare earth and 3D point clouds—in a timeframe of less than a decade. The 3DEP initiative is based on the results of the National Enhanced Elevation Assessment (NEEA), which indicated an optimal benefit to cost ratio for Quality Level 2 (QL2) data collected over 8-years to complete national coverage. The implementation model for 3DEP is based on multi-agency partnership funding for data acquisition, with the USGS acting in a lead program management role to facilitate planning and acquisition for the broader community through the use of government contracts and partnership agreements. The annual BAA is a competitive solicitation issued to facilitate the collection of lidar and derived elevation data for the 3DEP. It has been included in the annual Catalog of Domestic Federal Assistance under USGS 15.8 17. Federal agencies, state and local governments, tribes, academic institutions, and the private sector are eligible to submit BAA proposals. The 3DEP informational training webinar will introduce this opportunity to the wide array of prospective applicants and provide a summary of the BAA application procedures. Advanced Registration is required to attend the webinar. Webinar materials will be posted to *usgs.gov/3DEP/BAA* after the event.

David L. Saghy,

Deputy Director, National Geospatial Program.

[FR Doc. 2021–15224 Filed 7–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/ A0A501010.999900 253G]; OMB Control Number 1076–0094]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Law and Order on Indian Reservations—Marriage and Dissolution Applications

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 18, 2021.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Tricia Tingle, Associate Director, Tribal Justice Support Directorate at 1849 C Street NW, MS–2603 MIB, Washington, DC 20240; or by email to *Tricia.Tingle@bia.gov.* Please reference OMB Control Number 1076–0094 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Tricia Tingle at (505) 563–3950 or by email at *Tricia.Tingle@bia.gov.* You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 2, 2021 (86 FR 17396). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA 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. 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 Bureau of Indian Affairs (BIA) is seeking renewal of the approval for the information collection conducted under 25 CFR 11.600(c) and 11.606(c). This information collection allows the Clerk of the Court of Indian Offenses to collect personal information necessary for a Court of Indian Offenses to issue a marriage license or dissolve a marriage. Courts of Indian Offenses have been established on certain Indian reservations under the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2, 9, and 13, which authorize appropriations for ''Indian judges.'' The courts provide for the administration of justice for Indian tribes in those areas where the tribes retain jurisdiction over Indians, exclusive of State jurisdiction, but where tribal courts have not been established to exercise that jurisdiction and the tribes has, by resolution or constitutional amendment, chosen to use the Court of Indian Offenses. Accordingly, Courts of Indian Offenses exercise jurisdiction under 25 CFR 11. Domestic relations are governed by 25 CFR 11.600, which authorizes the Court of Indian Offenses to conduct and dissolve marriages.

In order to obtain a marriage licenses in a Court of Indian Offenses, applicants must provide the six items of information listed in 25 CFR 11.600(c), including identifying information, such a Social Security number, information on previous marriage, relationship to the other applicant, and a certificate of the results of any medical examination required by applicable tribal ordinances or the laws of the State in which the Indian country under the jurisdiction of the Court of Indian Offenses is located. To dissolve a marriage, applicants must provide the six items of information listed in 25 CFR 11.606(c), including information on occupation and residency (to establish jurisdiction), information on whether the parties have lives apart for at least 180 days or if there is serious marital discord warranting dissolution, and information on the children of the marriage and whether the wife is pregnant (for the court to determine the appropriate level of support that may be required from the non-custodial parent). (25 CFR 11.601) Two forms are used as part of this information collection, the Marriage License Application and the Dissolution of Marriage Application.

Title of Collection: Law and Order on Indian Reservations—Marriage & Dissolution Applications.

OMB Control Number: 1076–0094.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 260 per year, on average.

Total Estimated Number of Annual Responses: 260 per year, on average.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 65 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $6,500 (approximately $25 per application for processing fees).

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–15237 Filed 7–16–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032262; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Illinois State Museum, Springfield, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Illinois State Museum has completed an inventory of associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request to the Illinois State Museum. If no additional requestors come forward, transfer of control of the associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to the Illinois State Museum at the address in this notice by August 18, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Brooke Morgan, Illinois State Museum Research & Collections Center, 1011 East Ash Street, Springfield, IL 62703, telephone (217) 785–8930, email *Brooke.Morgan@illinois.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of associated funerary objects under the control of the Illinois State Museum, Springfield, IL. The associated funerary objects were removed from the River L'Abbe Mission site (11MS2), Madison County, IL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the associated funerary objects was made by the Illinois State Museum professional staff in consultation with representatives of the Peoria Tribe of Indians of Oklahoma.

History and Description of the Associated Funerary Objects

Between 1969–1972, associated funerary objects were removed from the River L'Abbe Mission site (11MS2), Madison County, IL, during excavations conducted by Melvin L. Fowler and Elizabeth D. Benchley of the University of Wisconsin-Milwaukee, and Charles J. Bareis of the University of Illinois, Urbana-Champaign. The human remains with which these funerary objects are associated, together with additional associated funerary objects, were previously listed in a Notice of Inventory Completion published in the **Federal Register** (62 FR 48303–48304, September 15, 1997), and were repatriated to the Peoria Tribe of Indians of Oklahoma. Subsequently, during a routine check of Illinois State Museum collections in advance of exhibit preparations, the associated funerary objects listed in this notice were found.

The 274 associated funerary objects derive from five burial features. From burial feature 118 is one lot of soil. From burial feature 119 are one lot of soil, one lot of gravel, one lot of charcoal, one lot of daub, 35 animal bones, 23 pieces of limestone and rough rock, 47 chert flakes, 107 pottery fragments, two galena cubes, one piece of pigment, and one glass sphere. From burial feature 130 are one lot of wood and charcoal, two pieces of chert, two animal bone fragments, five pieces of daub, one pottery fragment, four pieces of iron, and 15 rocks. From burial feature 131 are two shell fragments, one piece of chert, one piece of daub, and 14 pottery fragments. From burial feature 133 are one lot of daub, one lot of burned clay, two lots of rock, and one animal bone.

The River L'Abbe Mission site is located on the first terrace of Monks Mound, a former Mississippian temple mound on the Mississippi River floodplain. River L'Abbe was a French colonial mission consisting of a small chapel and adjoining cemetery that was established in 1735 to quell hostilities between French settlers and the Cahokia Nation. The Cahokia lived nearby and utilized this cemetery until the village's abandonment in 1752 when, facing incursion from other Tribes, many of the Cahokia fled south to the Fort de Chartres area to live with their Michigamea relatives. Based on the site context and historic documents, the associated funerary objects are affiliated with the 1735–1752 Cahokia occupation. The Cahokia were part of the Illinois Confederation of Tribes, which also included the Peoria, Kaskaskia, Michigamea, and Tamaroa. Their present-day descendants are the Peoria Tribe of Indians of Oklahoma.

Determinations Made by the Illinois State Museum

Officials of the Illinois State Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(A), the 274 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the associated funerary objects and the Peoria Tribe of Indians of Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to Dr. Brooke Morgan, Illinois State Museum Research & Collections Center, 1011 East Ash Street, Springfield, IL 62703, telephone (217) 785–8930, email *Brooke.Morgan@illinois.gov,* by August 18, 2021. After that date, if no additional requestors have come forward, transfer of control of the associated funerary objects to the Peoria Tribe of Indians of Oklahoma may proceed.

The Illinois State Museum is responsible for notifying the Peoria Tribe of Indians of Oklahoma that this notice has been published.

Dated: July 7, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–15251 Filed 7–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032268; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Michigan State University, East Lansing, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Michigan State University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Michigan State University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michigan State University at the address in this notice by August 18, 2021.

FOR FURTHER INFORMATION CONTACT: Judith Stoddart, Associate Provost for University Collections and Arts Initiatives, Michigan State University, 466 W Circle Drive, East Lansing, MI 48824–1044, telephone (517) 432–2524, email *stoddart@msu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of Michigan State University, East Lansing, MI. The human remains and associated funerary objects were removed from the Gros Cap Archaeological District, Mackinac County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Michigan State University professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan [previously listed as Huron Potawatomi, Inc.]; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; and two non-federally recognized Indian groups, the Burt Lake Band of Ottawa and Chippewa Indians, and the Grand River Band of Ottawa Indians.

An invitation to consult was extended to the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana [previously listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana]; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Little Shell Tribe of Chippewa Indians of Montana; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band); Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Prairie Band Potawatomi Nation [previously listed as Prairie Band of Potawatomi Nation, Kansas]; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Stockbridge Munsee Community, Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation.

Hereafter, all Indian Tribes and groups listed in this section are referred to as ''The Consulted and Notified Tribes and Groups.''

History and Description of the Remains

Beginning in 1958, human remains representing, at minimum, eight individuals were removed from the Gros Cap Archaeological District, Mackinac County, MI. Sites and localities within the District from which human remains were removed include the Gros Cap Site (20MK6), the Camp Fire Site (20MK7), and the vicinity ''south of the Ryerse Beach Cottage.'' These human remains, together with associated funerary objects, were acquired by Orlando ''Orr'' Melvin Greenlees and Eva Genevieve Gillmore Greenlees. On at least one occasion, the Greenlees also acquired Native American cultural items from other people, including a Mr. Bicknell. Mr. and Mrs. Greenlees owned the property adjacent to the post-contact era Gros Cap Cemetery and served as its caretakers. The Cemetery is also located within the Gros Cap Archaeological District. In 1970, Alicia Mackin acquired the Greenlees' collection, and on April 12, 1976, Ms. Mackin donated it to Michigan State University Museum.

The human remains (3901.19.2; 3901.21; 3901.29.10; 3901.29.12; 3901.31.1; 3901.32.12; 3901.34.1.1; 3901.34.1.2; 3901.98.4; 3901.98.13) belong to eight individuals of undetermined age and sex. No known individuals were identified. The 85 associated funerary objects are: One lot of chest fragments (3901.20), one animal effigy (3901.19.1), one nugget (3901.19.4), one tortoise shell comb fragment (3901.19.5), one lot of strung glass beads (3901.19.6), one lot bells and beads strung on wire (3901.19.7), one lot of bell and beads on wire (3901.19.10), one lot of white glass trade beads (3901.19.11), one lot of glass trade beads of various colors (3901.19.12), one lot of blue glass trade beads (3901.19.13), one

lot of black glass trade beads (3901.19.14), one lot of amber glass trade beads (3901.19.15), one translucent glass trade bead (3901.19.17), one dark teal glass trade bead (3901.19.18), one translucent amber glass trade bead (3901.19.19), one bone or shell bead (3901.19.20), one unidentifiable metal item (3901.19.22), one bone ball (3901.19.23), one shell pendant (3901.19.24), one European copper triangular projectile point (3901.29.1.1), one bone harpoon tip (3901.29.1.2), one brass pendant (3901.29.1.3), one bone harpoon head (3901.29.2), one shell bird effigy runtee (3901.29.4), one shell pendant (3901.29.5), two shell beads (3901.29.6), six blue glass beads (3901.29.7), one lot of fabric with copper weave embedded (3901.29.11), one lot of copper tinkling cones with attached fiber (3901.29.13), one stone grinding stone or ball (3901.98.1), one gray chert gunflint (3901.98.2), one bone spoon (3901.98.3), one lot of blue glass seed beads (3901.98.5), one lot of glass trade beads (3901.98.6), one lot of shell beads (3901.98.7), one stone ball (3901.98.8), one amber glass trade bead (3901.98.9), one charred animal bone (3901.98.10), one fossilized shell (3901.98.11), one lot of woven copper wire (3901.98.12), two circular pieces of iron (3901.98.14), one lot of red ochre (3901.98.15), one iron lock plate (3901.98.16), one grit-tempered ceramic vessel (3901.98.17), 14 fossils (3901.32.1), two dog teeth (3901.32.2), one deer tooth (3901.32.3), one deer toe bone (3901.32.4), three deer bones (3901.32.5), one lot of sturgeon bones (3901.32.6), one lot of mammal and bird bones (3901.32.7), one lot of sucker teeth (3901.32.8), one lot of trout or pike teeth (3901.32.9), one fish bone (3901.32.10), one lot of beaver mandibles and incisors (3901.32.11), one worked bird bone (3901.32.13), and one fragmentary white milky glass trade bead (3901.32.19). Five funerary objects—one awl handle (3901.19.3), one lot of bells (3901.19.8), one lot of beads stuck to corrosion (3901.19.9), one blue and white striped bead (3901.19.16), and one copper tinkling cone (3901.19.21)—are currently missing, but if found, will be transferred with the other cultural items in this notice.

Determinations Made by Michigan State University

Officials of Michigan State University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American ancestry based on archeological context, biological evidence, geographic location, and museum records.
- Pursuant to 25 U.S.C. 3001(3)(A), the 85 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana [previously listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana]; Citizen Potawatomi Nation, Oklahoma; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan [previously listed as Huron Potawatomi, Inc.]; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation [previously listed as Prairie Band of Potawatomi Nation, Kansas]; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Judith Stoddart, Associate Provost for University Collections and Arts Initiatives, Michigan State University, 466 W Circle Drive, East Lansing, MI 48824–1044, telephone (517) 432–2524, email *stoddart@msu.edu,* by August 18, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

Michigan State University is responsible for notifying The Consulted and Notified Tribes and Groups that this notice has been published.

Dated: July 7, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–15256 Filed 7–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032265; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Case Western Reserve University, Cleveland, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Case Western Reserve University (CWRU) has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to CWRU. If no additional requestors come forward, transfer of

control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to CWRU at the address in this notice by August 18, 2021.

FOR FURTHER INFORMATION CONTACT: Stacy Fening, Ph.D., Technology Transfer Office LC: 7219, Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106–7219, telephone (216) 368–0451, email *stacy.fening@case.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of Case Western Reserve University, Cleveland, OH. The human remains were removed from a shoreline area on Maui Island, HI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Case Western Reserve University professional staff in consultation with representatives of the Office of Hawaiian Affairs (OHA).

History and Description of the Remains

Sometime in the early part of the 20th century, human remains representing, at minimum, five individuals were removed from the shoreline area of Maui, HI, by a Mr. Woods, a resident of Ohio. The records accompanying the human remains describe them as likely belonging to three males and two females and surmise that their presence Maui was a result of Polynesian migration patterns. In 1932, the human remains were donated to CWRU for research and study and were assigned catalog numbers HTD 0.234–0.238. Subsequently, the Woods collection was permanently loaned to the Cleveland Museum of Natural History (CMNH), where the human remains listed in this notice now reside. No known individuals were identified. No associated funerary objects are present.

Determinations Made by Case Western Reserve University

Officials of Case Western Reserve University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of five individuals of Native Hawaiian ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native Hawaiian human remains and the Office of Hawaiian Affairs.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Stacy Fening, Ph.D., Technology Transfer Office LC: 7219, Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106–7219, telephone (216) 368–0451, email *stacy.fening@case.edu,* by August 18, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Office of Hawaiian Affairs may proceed.

Case Western Reserve University is responsible for notifying the Office of Hawaiian Affairs that this notice has been published.

Dated: July 7, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–15254 Filed 7–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032263; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Fowler Museum at the University of California Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Fowler Museum at the University of California Los Angeles (Fowler Museum at UCLA) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Fowler Museum at UCLA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Fowler Museum at UCLA at the address in this notice by August 18, 2021.

FOR FURTHER INFORMATION CONTACT: Wendy G Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Fowler Museum at the University of California Los Angeles, Los Angeles, CA. The human remains and associated funerary objects were removed from San Luis Obispo County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Fowler Museum at UCLA professional staff in consultation with representatives of the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California and three non-federally recognized Indian groups: The Barbareño/Ventureño Band of Mission

Indians, the *yak tityu tityu yak tiłhini*—Northern Chumash Tribe, and the Salinan Tribe of San Luis Obispo and Monterey Counties (hereafter referred to as ''The Consulted Tribes and Groups'').

History and Description of the Remains

In 1960, human remains representing, at minimum, one individual were removed from CA–SLO–156 in San Luis Obispo County, CA. Fred Reinman conducted excavations from June to August 1960 at this Late Period site. These excavations were conducted in association with the University of California Archaeological Survey under contract with the State Division of Beaches and Parks, which is now the Department of Parks and Recreation (State Parks). The excavations were initiated and conducted prior to the construction of a dam that would flood the site. The dam was designed and constructed by the State Department of Water Resources (DWR) during the period October 1958 to April 1961. The excavated materials were brought to UCLA Anthropology for analysis and preparation of a report for State Parks and DWR. They were curated by UCLA Anthropology until 1976, when, along with the rest of the archeological collections at UCLA Anthropology, they were transferred to the Fowler Museum. The fragmentary human remains, which were recovered from the surface of the site, belong to an adult of undetermined sex. No known individual was identified. No associated funerary objects are present.

In 1960, human remains representing, at minimum, five individuals were removed from CA–SLO–157 in San Luis Obispo County, CA. M.B. McKusick and Frances Riddell conducted excavations at this Late Period site in March of 1960, and the materials recovered from their excavations are identified as Accession 290. Fred M. Reinman conducted additional excavations at the site from June to August of 1960, and the materials recovered from his excavations are identified as Accession 292. Both excavations were conducted in association with the University of California Archaeological Survey under contract with the State Division of Beaches and Parks, which is now the Department of Parks and Recreation (State Parks). The excavations were initiated and conducted prior to the construction of the above described dam. The excavated materials were brought to UCLA Anthropology for analysis and preparation of a report for State Parks and DWR. They were curated by UCLA Anthropology until 1976, when, along with the rest of the archeological collections at UCLA Anthropology, they were transferred to the Fowler Museum. The human remains in Accession 290, Burial 1 belong to an adult, possibly male. The human remains in Accession 292, Burials 2, 3, and 4 belong to two juveniles and one infant. In addition, Accession 292 includes the fragmentary remains of an adult of indeterminate sex that were recovered from the surface of the site. No known individuals were identified. No associated funerary objects are present in Accession 290. The 78 associated funerary objects in Accession 292 include two sandstone pestles, one sandstone hammerstone, one basalt cobble, one quartzite core, one jasper projectile point, one chert chopper/scraper, three jasper retouched flakes, one chert worked flake, 48 unmodified shell fragments, three stone flakes, one chert flake, seven stone fragments, seven unmodified animal bone fragments, and one yellow ochre fragment.

In 1960, human remains representing, at minimum, one individual were removed from CA–SLO–159 in San Luis Obispo County, CA. Fred Reinman conducted excavations from June to August of 1960 at this Late Period site. These excavations were conducted in association with the University of California Archaeological Survey under contract with the State Division of Beaches and Parks, which is now the Department of Parks and Recreation (State Parks). The excavations were initiated and conducted prior to the construction of the above described dam. The excavated materials were brought to UCLA Anthropology for analysis and preparation of a report for State Parks and DWR. They were curated by UCLA Anthropology until 1976, when, along with the rest of the archeological collections at UCLA Anthropology, they were transferred to the Fowler Museum. The fragmentary human remains, which were recovered from the surface of the site, belong to an adult, possibly female. No known individual was identified. No associated funerary objects are present.

Through consultation, and consistent with ethnographic and historic documentation, the sites detailed in the above paragraphs have been determined to lie within the traditional territory of the Chumash. Moreover, the associated funerary objects in this notice are consistent with those used by groups that are ancestral to the present-day Chumash people. While the material culture of the earlier groups living in the area has passed through stages over the past 10,000 years, according to many local archeologists, these changes reflect evolving ecological adaptations and related developments in social organization of the same populations, rather than population displacements or movements, and explain why the same range of artifact types and materials were used from the early pre-contact period until historic times. Similarly, Native consultants explicitly state that population mixing (which did occur on a small scale) would not alter the continuity of the shared group identities of people associated with specific locales. Consequently, continuity through time can be traced between the earlier groups at the above listed sites and the present-day Chumash people.

Determinations Made by the Fowler Museum at the University of California Los Angeles

Officials of the Fowler Museum at the University of the California Los Angeles have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 78 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Wendy G Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu,* by August 18, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California may proceed.

The Fowler Museum at the University of the California Los Angeles is responsible for notifying The Consulted Tribes and Groups that this notice has been published.

Dated: July 7, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–15252 Filed 7–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032266; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Fremont Indian State Park and Museum, Sevier, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Fremont Indian State Park and Museum has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Fremont Indian State Park and Museum. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Fremont Indian State Park Museum at the address in this notice by August 18, 2021.

FOR FURTHER INFORMATION CONTACT: Kevin Taylor, Manager, Fremont Indian State Park and Museum, 3820 W Clear Creek Canyon Road, Sevier, UT 84766–6058, telephone (435) 527–4631, email *kevintaylor@utah.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Fremont Indian State Park Museum, Sevier, UT. The human remains were removed from the Five Finger Ridge Site (42SV1686) and the Icicle Bench Site (42SV1372), Sevier County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Fremont Indian State Park Museum professional staff in consultation with representatives of the Confederated Tribes of the Goshute Reservation, Nevada and Utah; Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Northwestern Band of the Shoshone Nation (previously listed as Northwestern Band of Shoshoni Nation and the Northwestern Band of Shoshoni Nation of Utah (Washakie)); Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes (previously listed as Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Pueblo of Jemez, New Mexico; San Juan Southern Paiute Tribe of Arizona; Shoshone-Bannock Tribes of the Fort Hall Reservation; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Skull Valley Band of Goshute Indians of Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe (previously listed as Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah); and the Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

In 1983, human remains representing, at minimum, nine individuals were removed from the Five Finger Ridge Site (42SV1686) and the Icicle Bench Site (42SV1372) in Sevier County, UT. The remains of eight individuals were removed from the Five Finger Ridge Site and the remains of one individual were removed from the Icicle Bench Site by the Office of Public Archaeology (OPA) of Brigham Young University as part of the Interstate-70 construction project. Based on the excavated artifacts and architectural structures, both sites belong to the prehistoric Formative (Anasazi/Fremont) Period (from approximately 400 B.C.E. to 1300 C.E.).

OPA returned the human remains to the Fremont Indian State Park and Museum in 1987. From December 2018 to December 2020, a physical anthropology/forensics analyst from the Utah State Historic Preservation Office conducted a detailed examination of the fragmentary human remains, during which over 1,000 individual bone fragments were identified. Only by plotting the findspots of the human remains and through forensic reconstruction could the number of individuals be determined. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Fremont Indian State Park and Museum

Officials of the Fremont Indian State Park and Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American, based on the culture represented by the excavated artifacts and architectural structures.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of nine individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah.
- Treaties, Acts of Congress, or Executive Orders indicate that the land from which the Native American human remains were removed is the aboriginal land of the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Kevin Taylor, Manager, Fremont Indian State Park and Museum, 3820 W Clear Creek Canyon Road, Sevier, UT 84766–6058, telephone (435) 527–4631, email *kevintaylor@utah.gov,* by August 18, 2021. After that date, if no additional requestors have come forward, transfer of control of the

human remains to the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah may proceed.

The Fremont Indian State Park and Museum is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: July 7, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–15255 Filed 7–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032261; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alutiiq Museum & Archaeological Repository, Kodiak, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Alutiiq Museum & Archaeological Repository has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Alutiiq Museum & Archaeological Repository. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Alutiiq Museum & Archaeological Repository at the address in this notice by August 18, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. April Laktonen Counceller, Alutiiq Museum & Archaeological Repository, 215 Mission Road First Floor, Kodiak, AK 99615, telephone (844) 425–8844, email *april@alutiiqmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Alutiiq Museum & Archaeological Repository, Kodiak, AK. The human remains were removed from the Aleut Village North Archeological Site (49–AFG–00004), Afognak Island, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Alutiiq Museum & Archaeological Repository professional staff in consultation with representatives of the Native Village of Afognak and the Native Village of Port Lions.

History and Description of the Remains

In June 2012, human remains representing, at minimum, one individual were discovered in a sample of faunal material collected from the Aleut Village North archeological site (49–AFG–00004) on Afognak Island, AK. The site is on a Native allotment conveyed to the late Fred Pestrikoff and now owned by his heir Karen Pestrikoff. From 1997 to 2000, the Pestrikoff family allowed excavations on this land as part of the Native Village of Afognak's Dig Afognak Program. Beginning in 1997, artifacts and samples from the project were deposited at the Alutiiq Museum & Archaeological Repository for care, as a loan from Karen Pestrikoff under museum accession number AM330. In 2012, the cranial fragment was identified by zooarcheologist Bob Kopperl, while completing an inventory of faunal materials. No known individual was identified. No associated funerary objects are present. Staff contacted Karen Pestrikoff regarding the human remains and she signed a transfer of control allowing the museum to separate the human remains from the collection for the purposes of repatriation. This occurred in November 2019.

The Aleut Village North Archeological Site is a prehistoric and historic settlement north of Afognak Village on the southeast coast of Afognak Island. The site has a well-preserved midden that dates to the Kachemak and Koniag traditions, as well as historic deposits of material. Human remains have been found at this site in the past (73 FR 79903), and have been determined to be Kodiak Alutiiq. Archeological data indicates that the ancestors of the Kodiak Alutiiq people have inhabited the Kodiak region for over 7,500 years. As the prehistoric midden deposit in which the cranial fragment was found covers this time span, the human remains are related to the contemporary Kodiak Alutiiq people. Specifically, the human remains are from an area of the Kodiak Archipelago traditionally used by members of the Native Village of Afognak and the Native Village of Port Lions.

Determinations Made by the Alutiiq Museum & Archaeological Repository

Officials of the Alutiiq Museum & Archaeological Repository have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Native Village of Afognak and the Native Village of Port Lions.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. April Laktonen Counceller, Alutiiq Museum & Archaeological Repository, 215 Mission Road First Floor, Kodiak, AK 99615, telephone (844) 425–8844, email *april@alutiiqmuseum.org,* by August 18, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Native Village of Afognak and the Native Village of Port Lions may proceed.

The Alutiiq Museum & Archaeological Repository is responsible for notifying the Native Village of Afognak and the Native Village of Port Lions that this notice has been published.

Dated: July 7, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–15250 Filed 7–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032264; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The American Museum of Natural History (AMNH), in consultation with the Tohono O'odham Nation, has determined that the cultural items listed in this notice meet the definition of either unassociated funerary objects or objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the American Museum of Natural History. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the American Museum of Natural History at the address in this notice by August 18, 2021.

FOR FURTHER INFORMATION CONTACT: Nell Murphy, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the American Museum of Natural History, New York, NY, that meet the definition of either unassociated funerary objects or objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1911, the AMNH purchased one medicine basket from Rudolf Rasmessen, a Tucson-based curio dealer and accessioned it into the collection that same year. The empty basket is described in Museum records as a Papago bear grass medicine basket. It is constructed of yucca leaves and plaited diagonally. It has an oblong shape consisting of rectangular sides with rounded corners and a tight-fitting lid that is characteristic of Papago medicine baskets in general.

In 1911, AMNH accessioned eight medicine baskets and one medicine man's plume that Ms. Mary Lois Kissell collected between 1909–1910 as part of the Huntington Southwest Expedition. This Museum-sponsored initiative sought to better understand the peoples living in the southwestern United States. The baskets and medicine plume are all catalogued as ''Papago.''

Kissell collected three baskets and one medicine man's plume in San Xavier, Pima County, AZ. The first basket from the San Xavier community has the customary oblong shape and lid. Museum records indicate that the original owner emptied the basket of all medicine items at the time of purchase. Kissell collected the second basket in San Xavier, though she indicated it was made by an individual in Santa Rosa. In her 1916 publication on Pima and Papago basketry, Kissell noted that the basket contains owl feathers which protect from diseases caused by the owl. Today, in addition to owl feathers. this basket holds prayer sticks, cloth, an Apache effigy figure, and a fringed bag once used to contain it. Basket contents appear to have shifted over time and some of these items likely belong with other baskets described in this Notice. Kissell purchased the third basket from a medicine man in San Xavier. The basket, which was woven by the medicine man's wife, contains two turtle shells (one of which was likely fashioned into a rattle), which according to Museum records, offered protection from diseases caused by the turtle. In her 1916 publication on Pima and Papago basketry, Kissell wrote that the turtle shell has served three generations of medicine men. Kissell purchased a medicine man's plume while in San Xavier and according to Museum records, she placed it inside an empty medicine basket that she collected from a different medicine man in Santa Rosa. The plume consists of two feathers, presumably eagle, with string at the base.

Kissell acquired two baskets from ''an old medicine woman'' in Little Tucson, Pima County, AZ, one of which she describes as a rain basket and the other of which contained medicine she describes as protecting an infant from being appropriated by evil spirits. Both baskets have the customary oblong shape and lid and one is now empty. The other basket contains a white cloth and prayer or rain stick. It is not possible to clearly link either basket with the descriptions provided by Kissell.

Kissell collected two medicine baskets from Santa Rosa, Pima County, AZ. The first is a medicine man's basket that was made by the wife of the owner. Although empty today (except for a bundle of twine), the archival record indicates that it once contained an Apache figure inside ''to keep off Apache Indians.'' It is likely that the Apache figure is now stored in a Medicine basket from San Xavier described above. The second basket is a medicine man's basket that was collected by Kissell during her visit to Santa Rosa. An archival note indicates that it was plaited by the man's wife and purchased empty. Kissell added a San Xavier medicine man's plume to the basket after it was collected. The blue string inside may have originally been tied around the exterior.

Kissell purchased one medicine basket with its contents from a medicine man in Covered Wells. It was plaited by the man's mother and is described in Museum records as a ''medicine man's basket for bringing rain.'' The basket currently holds pieces of cloth, four feathers, and a stick. In her 1916 publication, Kissell describes other items that are not found in the basket.

In 1911, Carl Lumholtz, a Norwegian naturalist, sold three medicine baskets, three arrow shaft smoothers and one arrow shaft straightener to the AMNH. Between 1909 and 1910, Lumholtz was commissioned by private individuals to explore northwestern Sonora, Mexico, and southwestern Arizona. In 1911, he sold the items he collected during these expeditions to the AMNH. The first basket is fashioned of twined and plaited agave leaves in an oblong shape. The lid has a painted green stripe which outlines its top and then divides it into two equal halves into which are painted two identical squares created by alternating red and green lines. A red painted stripe outlines the lid's flap. The second basket is catalogued as ''small basket for keeping painting material'' but it is now empty. It has the same oblong shape as the first basket but lacks adornment. The third basket, while also exhibiting the typical oblong

shape, is much longer in length than the other two baskets. Lumholtz described this basket in his field notebook with the following entry: ''Large medicine basket in which eagle plumes and other sacred paraphernalia of the lady Kei[illeg.] are kept. Made by an old woman, Papago, at Noolic rancheria, Comobabi Range. June 1910.'' Lumholtz also wrote that ''the cover is considered as the mat, on which [the basket] stands when in use at the solemn occasions.''

According to Museum records, Lumholtz, collected the three arrow shaft smoothers and the one arrow shaft straightener ''from the ancient cemetery near Cav-va-xiac Village, where [they were] deposited on a grave.'' Information provided during consultation with the Tohono O'odham Nation indicates that ''Cav-va-xiax Village'' is presently known as Cobabi (*Kaav Vavhia* or Badger Well in O'odham) which is situated east of Santa Rosa, Arizona. According to O'odham custom, visitors to this historic site are required to leave an offering and given the nature of the burial items, it is likely that the arrow smoothers and straightener were associated with the burial site of an O'odham hunter or warrior.

Based on the Museum's records and consultation with representatives of the Tohono O'odham Nation of Arizona, the 12 baskets and one medicine man's plume collected in Arizona and catalogued as Papago are culturally affiliated with the Tohono O'odham Nation of Arizona. Evidence from museum records, scholarly publications and information provided during consultation indicated that a basket became a ''medicine basket'' once the contents, such as artifacts or herbs, were placed inside. Only a medicine person would have been allowed to handle these kinds of baskets and no individual had the authority to sell them. The medicine and medicine basket belonged to families of medicine people and in some cases, would have been passed down to other members with a gift for healing. Even today, when a medicine person dies, some of their items are buried with them while others are left behind.

Based on the Museum's records and consultation with representatives of the Tohono O'odham Nation of Arizona, the four items removed from an ancient cemetery near Cav-va-xiac Village are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed to have been removed from a specific burial site of a Tohono O'odham individual.

Determinations Made by the American Museum of Natural History

Officials of the American Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the three arrow shaft smoothers and one arrow shaft straightener described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(3)(D), the 12 medicine baskets and one medicine man's plume described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the four unassociated funerary objects and 13 objects of cultural patrimony and the Tohono O'odham Nation of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Nell Murphy, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.org,* by August 18, 2021. After that date, if no additional claimants have come forward, transfer of control of the four unassociated funerary objects and 13 objects of cultural patrimony to the Tohono O'odham Nation of Arizona may proceed.

The American Museum of Natural History is responsible for notifying the Tohono O'odham Nation of Arizona that this notice has been published.

Dated: July 7, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–15253 Filed 7–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 211S180110; S2D2S SS08011000 SX064A000 21XS501520; OMB Control Number 1029–0027]

Agency Information Collection Activities; General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 17, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to the Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240; or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0027 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716.

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 OSMRE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to

be collected; and (5) how might the OSMRE 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: Section 523 of the Surface Mining Control and Reclamation Act of 1977 requires that a Federal lands program be established to govern surface coal mining and reclamation operations on Federal lands. The information is needed to assist the regulatory authority to determine the eligibility of an applicant to conduct coal mining on Federal lands.

Title of Collection: General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands.

OMB Control Number: 1029–0027.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State governments and businesses.

Total Estimated Number of Annual Respondents: 10.

Total Estimated Number of Annual Responses: 12.

Estimated Completion Time per Response: Varies from 1 hours to 244 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 2,650.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2021–15297 Filed 7–16–21; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 211S180110; S2D2S SS08011000 SX064A000 21XS501520; OMB Control Number 1029–0051]

Agency Information Collection Activities; State Regulatory Authority: Inspection and Enforcement

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 17, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to the Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240; or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0051 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716.

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 OSMRE; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OSMRE 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: This provision requires the regulatory authority to conduct periodic inspections of coal mining activities and prepare and maintain inspection reports and other related documents for OSMRE and public review. This information is necessary to meet the requirements of the Surface Mining Control and Reclamation Act of 1977 and its public participation provisions. Public review assures the public that the State is meeting the requirements of the Act and approved State regulatory program.

Title of Collection: State Regulatory Authority: Inspection and Enforcement.

OMB Control Number: 1029–0051.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State governments.

Total Estimated Number of Annual Respondents: 24.

Total Estimated Number of Annual Responses: 61,585.

Estimated Completion Time per Response: Varies from 1.5 hours to 6 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 330,900.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $625.

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*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2021–15298 Filed 7–16–21; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 211S180110; S2D2S SS08011000 SX064A000 21XS501520; OMB Control Number 1029–0103]

Agency Information Collection Activities; Certification and Noncoal Reclamation

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 18, 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. Please provide a copy of your comments to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0103 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at (202) 208–2716. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 5, 2021 (86 FR 17640). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This Part establishes procedures and requirements for a Governor of a State or equivalent head of an Indian tribe to certify to the Secretary that the State/Indian tribe has achieved all known coal related reclamation objectives. It also established procedures for States and Indian tribes to implement a noncoal reclamation program as set forth in Section 411 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Title of Collection: Certification and Noncoal Reclamation.

OMB Control Number: 1029–0103.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State and Tribal governments.

Total Estimated Number of Annual Respondents: 1.

Total Estimated Number of Annual Responses: 1.

Estimated Completion Time per Response: 84.

Total Estimated Number of Annual Burden Hours: 84.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2021–15296 Filed 7–16–21; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 211S180110; S2D2S SS08011000 SX064A000 21XS501520; OMB Control Number 1029–0129]

Agency Information Collection Activities; Reclamation Awards

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 18, 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. Please provide a copy of your comments to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC

20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0129 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at (202) 208–2716. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 30, 2021 (86 FR 16639). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Since 1986, the Office of Surface Mining Reclamation and Enforcement has presented awards to coal mine operators who completed exemplary active reclamation. A parallel award program for abandoned mine land reclamation began in 1992. The objective is to give public recognition to those responsible for the nation's most outstanding achievement in environmentally sound surface mining and land reclamation and to encourage the exchange and transfer of successful reclamation technology.

Title of Collection: Reclamation Awards.

OMB Control Number: 1029–0129.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State governments and businesses.

Total Estimated Number of Annual Respondents: 46.

Total Estimated Number of Annual Responses: 46.

Estimated Completion Time per Response: Varies from 2 hours to 65 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 882.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $2,800.

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.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2021–15304 Filed 7–16–21; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1200]

Certain Electronic Devices, Including Streaming Players, Televisions, Set Top Boxes, Remote Controllers, and Components Thereof; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on July 9, 2021, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

> Unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief

should the Commission find a violation, specifically, a limited exclusion order directed to certain electronic devices, including streaming players, televisions, set top boxes, remote controllers, and components thereof imported, sold for importation, and/or sold after importation by, and cease and desist orders directed to, the following respondents: Roku Inc. of Los Gatos, California; TCL Electronics Holdings Ltd. of New Territories, Hong Kong, f/k/a TCL Multimedia Holdings Ltd.; Shenzhen TCL New Technology Co. Ltd. of Shenzhen, China; TCL King Electrical Appliances Co. Ltd. of Huizhou, China; TTE Technology Inc. of Corona, California, d/b/a TCL USA and TCL North America; TCL Corp. of Huizhou City, China; TCL Moka Int'l Ltd. of New Territories, Hong Kong; TCL Overseas Marketing Ltd. of New Territories, Hong Kong; TCL Industries Holdings Co., Ltd. of New Territories, Hong Kong; TCL Smart Device Co. of Bac Tan Uyen District, Vietnam; Hisense Co. Ltd. of Qingdao, China; Hisense Electronics Manufacturing Co. of America Corp. of Suwanee, Georgia d/b/a Hisense USA; Hisense Import & Export Co. Ltd. of Qingdao, China; Qingdao Hisense Electric Co., Ltd. of Qingdao, China; Hisense International Co., Ltd. of Shen Wang, Hong Kong; Funai Electric Co., Ltd. of Osaka, Japan; Funai Corp. Inc. of Rutherford, New Jersey; and Funai Co., Ltd. of Nakhon Ratchasima, Thailand (collectively, ''Respondents''). Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's recommended determination on remedy and bonding issued in this investigation on July 9, 2021. Comments should address whether issuance of the recommended limited exclusion order and cease and desist orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on August 9, 2021.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1200'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 13, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–15215 Filed 7–16–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Oil Pollution Act

On July 13, 2021, the Department of Justice filed a civil Complaint and lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas in the lawsuit entitled *United States of America and the State of Texas* v. *Kirby Inland Marine, LP,* Civil Action No. 3:21–cv–00180. The United States is acting at the request of the National Oceanic and Atmospheric Administration as a federal trustee for natural resources. The State of Texas is acting through its designated State trustees: The Texas General Land Office, the Texas Commission on Environmental Quality, and the Texas Parks and Wildlife Department.

This is a civil action brought against Defendant Kirby Inland Marine, LP for recovery of damages for injury to, destruction of, loss of, or loss of use of natural resources, under Section 1002 of the Oil Pollution Act, 33 U.S.C. 2702. The United States and Texas seek damages in order to compensate for and restore natural resources injured by Kirby's oil discharge that occurred in the Houston Ship Channel near Bayport, Texas, on May 10, 2019. The United States and the State also seek to recover unreimbursed costs of assessing such injuries.

The Complaint in this natural resource damages case was filed against Kirby concurrently with the lodging of the proposed Consent Decree. The Complaint alleges that Kirby is liable for damages under the Oil Pollution Act. The Complaint alleges that oil was discharged from a Kirby barge during a collision in the Ship Channel and that natural resources were injured as a result of the discharge.

Kirby will pay $2,102,115.22 under the proposed Consent Decree. Of this total, $1.695 million is designated for the trustees to restore, replace, or acquire the equivalent of the natural resources allegedly injured, destroyed, or lost as a result of the oil spill, and the remaining amount will go to reimburse the trustees for their unpaid assessment costs.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America and the State of Texas* v. *Kirby Inland Marine, LP,* D.J. Ref. No. 90–5–1–1–11096/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted by either email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Acting Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $7.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–15178 Filed 7–16–21; 8:45 am]

BILLING CODE 4410–05–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of July 19, 26, August 2, 9, 16, 23, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of July 19, 2021

There are no meetings scheduled for the week of July 19, 2021.

Week of July 26, 2021—Tentative

There are no meetings scheduled for the week of July 26, 2021.

Week of August 2, 2021—Tentative

There are no meetings scheduled for the week of August 2, 2021.

Week of August 9, 2021—Tentative

There are no meetings scheduled for the week of August 9, 2021.

Week of August 16, 2021—Tentative

There are no meetings scheduled for the week of August 16, 2021.

Week of August 23, 2021—Tentative

There are no meetings scheduled for the week of August 23, 2021.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: July 14, 2021.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2021–15334 Filed 7–15–21; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–113 and CP2021–115]

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:* July 21, 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:

Table of Contents

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).: MC2021–113 and CP2021–115; Filing Title: USPS Request to Add Priority Mail Contract 712 to Competitive Product List and Notice of Filing Materials Under Seal; Filing Acceptance Date: July 13, 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: July 21, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–15249 Filed 7–16–21; 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).

[1] 15 U.S.C. 78s(b)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92395; File No. SR–NYSEArca–2021–57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the NYDIG Bitcoin ETF Under NYSE Arca Rule 8.201–E

July 13, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 30, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares of the NYDIG Bitcoin ETF (the ''Trust'')[4] under NYSE Arca Rule 8.201–E. The common shares of beneficial interest of the Trust are referred to herein as the ''Shares.'' The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Trust under NYSE Arca Rule 8.201–E, which governs the listing and trading of Commodity-Based Trust Shares.

Description of the Trust

The Shares will be issued by the Trust, a Delaware statutory trust. According to the Registration Statement, the Trust's investment objective is to reflect the performance of the price of bitcoin less the expenses of the Trust's operations. The Trust will not seek to reflect the performance of any benchmark or index.[5]

In seeking to achieve its investment objective, the Trust will only hold bitcoin. The Trust will value its assets daily in accordance with Generally Accepted Accounting Principles (''GAAP''), which, according to the Registration Statement, generally value bitcoin by reference to orderly transactions in the principal active market for bitcoin, as described below.

NYDIG Asset Management LLC (the ''Sponsor'') is the Sponsor of the Trust. Delaware Trust Company (the ''Trustee'') is the trustee of the Trust and NYDIG Trust Company LLC (the ''Bitcoin Custodian'') will hold all of the Trust's bitcoin on the Trust's behalf as custodian. Both the Sponsor and the Bitcoin Custodian are indirect wholly-owned subsidiaries of New York Digital Investment Group LLC (''NYDIG'').

Pursuant to the custodial agreement, the Bitcoin Custodian will be responsible for (1) safekeeping all of the bitcoin owned by the Trust, (2) opening an account that holds the Trust's bitcoin and (3) facilitating the transfer of bitcoin required for the operation of the Trust, as directed by the Sponsor. The Bitcoin Custodian is chartered as a limited purpose trust company by the New York State Department of Financial Services (''NYDFS'') and is authorized by NYDFS to provide digital asset custody services. U.S. Bancorp Fund Services, LLC will act as the transfer agent for the Trust (the ''Transfer Agent'') and as the administrator of the Trust (the ''Administrator'') to perform various administrative, tax, accounting and recordkeeping functions on behalf of the Trust. The Transfer Agent and the Administrator will also be responsible for issuing and redeeming Shares and calculating the net asset value (''NAV'') of the Shares, respectively.

According to the Registration Statement, the Trust will process all creations and redemptions of Shares in transactions with financial firms that are authorized to do so (known as ''Authorized Participants''). When the Trust issues or redeems its Shares, it will do so only in ''in-kind'' transactions in blocks of 10,000 Shares

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Trust was formed as a Delaware statutory trust on January 22, 2021, and is operated as a grantor trust for U.S. federal tax purposes. The Trust has no fixed termination date.

[5] On February 16, 2021, the Trust filed a draft Registration Statement on Form S–1 under the Securities Act of 1933 (the ''Registration Statement''). The description of the operation of the Trust herein is based, in part, on the Registration Statement. The Registration Statement is not yet effective, and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

(a ''Creation Basket'') based on the quantity of bitcoin attributable to each Share of the Trust (net of accrued but unpaid Sponsor fees and any accrued but unpaid extraordinary expenses or liabilities). Because the creation and redemption of Creation Baskets will be effected via in-kind transactions based on the quantity of bitcoin attributable to each Share, the quantity of Creation Baskets so created or redeemed will generally not be affected by fluctuations in the value of bitcoin. When purchasing Creation Baskets, Authorized Participants or their agents will deliver bitcoin to the Trust's account with the Bitcoin Custodian in exchange for Creation Baskets. When redeeming Creation Baskets, Authorized Participants or their agents will receive bitcoin from the Trust through the Bitcoin Custodian. The Trust will not purchase or, barring a liquidation or extraordinary circumstances, sell bitcoin directly.

According to the Registration Statement, to support the ability of Authorized Participants to provide liquidity at prices that reflect the value of the Trust's assets and to facilitate orderly transactions in the Shares, the Trust will ordinarily process redemptions of Shares on the next day when the Exchange is open for regular trading (a ''Business Day'') following receipt of a redemption request by an Authorized Participant.

The Sponsor believes that the design of the Trust will enable investors to effectively and efficiently implement strategic and tactical asset allocation strategies that use bitcoin by investing in the Shares rather than directly in bitcoin.

Custody of the Trust's Bitcoin

According to the Registration Statement, and as described above, the Trust's Bitcoin Custodian will custody of all of the Trust's bitcoin. Custody of bitcoin typically involves the generation, storage and utilization of private keys. These private keys are used to effect transfer transactions—*i.e.,* transfers of bitcoin from an address associated with the private key to another address. While private keys must be used to send bitcoin, private keys do not need to be used or shared in order to receive a bitcoin transfer; every private key has an associated public key and an address derived from that public key that can be freely shared, to which counterparties can transfer bitcoin. The Bitcoin network has a public ledger, meaning that anybody with access to the address can see the balance of digital assets in that address.

The Bitcoin Custodian carefully considers the design of the physical, operational and cryptographic systems for secure storage of the Trust's private keys in an effort to lower the risk of loss or theft. According to the Registration Statement, no such system is perfectly secure and loss or theft due to operational or other failure is always possible. The Bitcoin Custodian uses a multi-factor security system under which actions by multiple individuals working together are required to access the private keys necessary to transfer such digital assets and ensure the Trust's exclusive ownership. The multi-factor security system generates private keys using a Federal Information Processing Standards Publication 140–2 (''FIPS 140–2'')-certified random number generator to ensure the keys' uniqueness. Before these keys are used, the Bitcoin Custodian validates that the public addresses associated with these keys have no associated digital asset balances. The software used for key generation and verification is tested by the Bitcoin Custodian and is reviewed by third-party advisors from the security community with specific expertise in computer security and applied cryptography. The private keys are stored in an encrypted manner using a FIPS 140–2-certified security module held in redundant secure, geographically dispersed locations with high levels of physical security, including robust physical barriers to entry, electronic surveillance and continuously roving patrols. The operational procedures of these facilities and of the Bitcoin Custodian are reviewed by third-party advisors with specific expertise in physical security. The devices that store the keys will never be connected to the internet or any other public or private distributed network—this is colloquially known as ''cold storage.'' Only specific individuals are authorized to participate in the custody process, and no individual acting alone will be able to access or use any of the private keys. In addition, no combination of the executive officers of the Sponsor or the investment professionals managing the Trust, acting alone or together, will be able to access or use any of the private keys that hold the Trust's bitcoin.

The Trust generally does not intend to hold cash or cash equivalents. However, the Trust may hold cash and cash equivalents on a temporary basis to pay extraordinary expenses. The Trust will enter into a cash custody agreement with U.S. Bank N.A. under which U.S. Bank N.A. will act as custodian of the Trust's cash and cash equivalents.

Overview of Bitcoin and the Bitcoin Network

According to the Registration Statement, Bitcoin is a digital asset, the ownership and behavior of which are determined by participants in an online, peer-to-peer network that connects computers that run publicly accessible, or ''open source,'' software that follows the rules and procedures governing the Bitcoin network, commonly referred to as the Bitcoin protocol. The value of bitcoin, like the value of other digital assets, is not backed by any government, corporation or other identified body. Ownership and the ability to transfer or take other actions with respect to bitcoin is protected through public-key cryptography. The supply of bitcoin is constrained formulaically by the Bitcoin protocol instead of being explicitly delegated to an identified body (*e.g.,* a central bank or corporate treasury) to control. Units of bitcoin are treated as fungible. Bitcoin and certain other types of digital assets are sometimes referred to as digital currencies or cryptocurrencies. No single entity owns or operates the Bitcoin network, the infrastructure of which is collectively maintained by (1) a decentralized group of participants who run computer software that results in the recording and validation of transactions (commonly referred to as ''miners''), (2) developers who propose improvements to the Bitcoin protocol and the software that enforces the protocol and (3) users who choose what Bitcoin software to run. Bitcoin was released in 2009 and, as a result, there is little data on its long-term investment potential. Bitcoin is not backed by a government-issued legal tender or other assets or currency.

Bitcoin is ''stored'' or reflected on a digital transaction ledger commonly known as a ''blockchain.'' A blockchain is a type of shared and continually reconciled database, stored in a decentralized manner on the computers of certain users of the digital asset. A blockchain is a canonical record of every digital asset: The blockchain records every ''coin'' or ''token,'' balances of digital assets, every transaction and every address associated with a quantity of a particular digital asset. Bitcoin utilizes the blockchain to record transactions into and out of different addresses, facilitating a determination of how much bitcoin is in each address.

Bitcoin is created by ''mining.'' Mining involves miners using a sophisticated computer program to repeatedly solve complex mathematical problems on specialized computer hardware. The mathematical problem

involves a computation involving all or some bitcoin transactions that have been proposed by the Bitcoin network's participants. When this problem is solved, the computer creates a ''block'' consisting of these transactions. As each newly solved block refers back to and ''connects'' with the immediately prior solved block, the addition of a new block adds to the blockchain in a manner similar to a new link being added to a chain. A miner's proposed block is added to the blockchain once a majority of the nodes on the network confirm the miner's work. A miner that is successful in adding a block to the blockchain is automatically awarded a fixed amount of bitcoin for its efforts plus any transaction fees paid by transferors whose transactions are recorded in the block. This reward system is the means by which new bitcoin enter circulation. This reward system, called proof of work, also ensures that the local copies of the Bitcoin blockchain maintained by participants in the Bitcoin network are kept in consensus with one another.

The Bitcoin Market

According to the Registration Statement, Bitcoin is the oldest, best-known and largest market-capitalization digital asset. Since the advent of bitcoin, numerous other digital assets have been created. The website *CoinMarketCap.com* tracks the U.S. dollar price and total market capitalization for each of more than 5,000 traded digital assets. As of April 30, 2021, bitcoin had a total market capitalization in excess of $1 trillion and represented more than 45% of the entire digital asset market.

The first trading venues for bitcoin were informal exchange services marketed primarily in public online forums. Transactions on these services were effected via anonymous email, and the fiat currency portions of these transactions were effected through payment services such as PayPal. These services required their operators to manually match buyers and sellers in order to process transactions. Later, automated exchanges that matched buyers and sellers began to form. Many such exchanges have been created in the U.S. and abroad. In the U.S., a number of exchanges now operate under licensing from the NYDFS.

Beginning in 2016, more institutional investors entered the bitcoin market. As a result, an increasing number of transactions have occurred in over-the-counter (''OTC'') markets instead of exchanges. This type of trading allows for bespoke trading arrangements that may ease of the burden of trade operations or reduce different types of risks (*e.g.,* counterparty risk).

As a result, there is not a single source for pricing bitcoin. According to the Registration Statement, the Trust believes that prices on the bitcoin trading venues are generally formed by the levels of demand on either side of the exchange's order book, and arbitrage between exchanges typically prevents larger and/or more persistent differences in prices between bitcoin trading venues. Factors that the Trust believes may influence the relative balance of buyers and sellers on the bitcoin trading venues include trading activity in the OTC markets, global or regional economic conditions, expected levels of inflation, growth or reversal in the adoption and use of bitcoin, developments in the regulation of bitcoin, changes in the preference of market participants between bitcoin and other digital assets, maintenance and development of the open-source software protocol of the Bitcoin network, and negative consumer or public perception of bitcoin specifically or digital assets generally.

Bitcoin spot trading occurs on venues in the U.S. that are licensed to conduct that business by the NYDFS, other venues in the U.S. and non-U.S. venues. In addition, bitcoin futures and options trading occurs on exchanges in the U.S. regulated by the Commodity Futures Trading Commission (the ''CFTC''). The market for NYDFS-licensed and CFTC-regulated trading of bitcoin and bitcoin derivatives has developed substantially. Bitcoin market conditions in the three months ending on April 30, 2021 are briefly summarized as follows:

- *Bitcoin:* Six NYDFS-licensed entities operate trading venues with order books for spot trading of bitcoin, with a total average daily trading volume of approximately $2.5 billion. Across these venues, the average daily deviation of prices was less than 0.08%. The largest NYDFS-licensed trading venue by volume had an average bid-ask spread during the period of less than 0.05% for trades of $250,000.
- *Futures:* Two CFTC-regulated exchanges facilitate trading of bitcoin futures, with a total average daily trading volume of approximately $2.9 billion.
- *Options:* One CFTC-regulated exchange facilitates trading of options on bitcoin futures, with average monthly trading volume of approximately $380 million.

The following table shows the average daily trading volume for bitcoin across the three largest NYDFS-licensed exchanges, as well as the average daily trading volume and average daily open interest (*i.e.,* the average total bitcoin exposure of futures contracts held by market participants at the end of each trading day) for bitcoin futures contracts on the Chicago Mercantile Exchange (''CME'') and the Intercontinental Exchange. The bitcoin data shown is for trading volumes of bitcoin against U.S. dollars and exclude trading transactions of bitcoin against other digital assets (*e.g.,* Tether) or other fiat currencies (*e.g.,* euros).

Year	Bitcoin daily volume (USD millions)	Futures daily volume (USD millions)	Futures average open interest (USD millions)
2016	7.95		
2017	215.44	41.10	81.87
2018	267.19	86.68	126.90
2019	216.97	172.60	246.62
2020	708.39	561.78	535.13
2021 (through 4/30)	2,564.30	2,507.96	2,934.98

Calculation of Net Asset Value

The Trust's NAV is determined in accordance with GAAP as the total value of bitcoin held by the Trust, plus any cash or other assets, less any liabilities including accrued but unpaid expenses. The NAV per Share is determined by dividing the NAV of the Trust by the number of Shares outstanding. The NAV of the Trust is typically determined as of 4:00 p.m. Eastern Time (ET) on each Business

Day. The Administrator will calculate the NAV of the Trust once each Exchange trading day. The Exchange's Core Trading Session closes at 4:00 p.m. ET. The Trust's daily activities are generally not reflected in the NAV determined for the Business Day on which the transactions are effected (the trade date), but rather on the following Business Day. The NAV for the Trust's Shares will be disseminated daily to all market participants at the same time.

Intraday Indicative Value

In order to provide updated information relating to the Trust for use by shareholders and market professionals, the Trust will disseminate an intraday indicative value (''IIV'') per Share updated every 15 seconds. The IIV will be calculated by using the same methodology that the Trust uses to determine NAV, which, as described above, is to follow GAAP. Generally, GAAP requires the fair value of an asset that is traded on a market to be measured by reference to orderly transactions on an active market. Among all active markets with orderly transactions, the market that is used to determine the fair value of an asset is the principal market. The Sponsor expects that the principal market will initially generally be the NYDFS-regulated trading venue with the highest trading volume and level of activity.

The IIV disseminated during the Exchange's Core Trading Session between 9:30 a.m. to 4:00 p.m. ET should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Core Trading Session by one or more major market data vendors.

Creation and Redemption of Shares

According to the Registration Statement, the Trust will create and redeem Shares from time to time, but only in one or more blocks of 10,000 Shares (known as ''Creation Baskets''). Creation Baskets will only be made in exchange for delivery to the Trust or the distribution by the Trust of the amount of bitcoin represented by the Shares being created or redeemed, the amount of which will be based on the quantity of bitcoin attributable to each Share of the Trust (net of accrued but unpaid Sponsor fees, extraordinary expenses or liabilities) being created or redeemed determined as of 4:00 p.m. ET on the day the order is properly received. Because creation and redemption of Creation Baskets will be effected via in-kind transactions based on the quantity of bitcoin attributable to each Share, the quantity of Creation Baskets so created or redeemed will generally not be affected by fluctuations in the value of bitcoin.

According to the Registration Statement, Authorized Participants are the only persons that may place orders to create and redeem Creation Baskets. Authorized Participants must be (1) registered broker-dealers or other securities market participants, such as banks or other financial institutions, that are not required to register as broker-dealers to engage in securities transactions, and (2) entities that have an account with The Depository Trust Company (''DTC'') such as banks, brokers, dealers and trust companies. To become an Authorized Participant, a person must enter into an authorized participant agreement with the Trust and the Sponsor (the ''Authorized Participant Agreement''). The Authorized Participant Agreement provides the procedures for the creation and redemption of Shares and for the delivery of the bitcoin required for such creation and redemptions.

According to the Registration Statement, Authorized Participants will place orders through the Transfer Agent. The Transfer Agent will coordinate with the Trust's Bitcoin Custodian in order to facilitate settlement of the Shares and bitcoin.

Creation Procedures

According to the Registration Statement, on any Business Day, an Authorized Participant may place an order with the Transfer Agent to create one or more Creation Baskets. Purchase orders must be placed by 4:00 p.m. ET or the close of regular trading on the Exchange, whichever is earlier. The day on which a valid order is received by the Transfer Agent is considered the purchase order date.

By placing a purchase order, an Authorized Participant agrees to facilitate the deposit of bitcoin with the Trust. If required by the Sponsor and the Trust, prior to the delivery of Creation Baskets for a purchase order, the Authorized Participant must also have wired to the Transfer Agent the non-refundable transaction fee due for the purchase order. Authorized Participants may not withdraw a purchase order.

The manner by which Creation Baskets are made is dictated by the terms of the Authorized Participant Agreement. By placing a purchase order, an Authorized Participant agrees to facilitate the deposit of bitcoin with the Bitcoin Custodian. If an Authorized Participant fails to consummate the foregoing, the order will be cancelled.

The total deposit of bitcoin required to create each Creation Basket is an amount of bitcoin that is in the same proportion to the total amount of bitcoin held by of the Trust (net of accrued but unpaid Sponsor fees, extraordinary expenses or liabilities) on the date the purchase order is properly received as the number of Shares to be created under the purchase order is to the total number of Shares outstanding on the date the order is received.

Following an Authorized Participant's purchase order, the Trust's bitcoin account with the Bitcoin Custodian (the ''Bitcoin Account'') is credited with the required bitcoin by the end of the second Business Day following the purchase order date. Upon receipt of the bitcoin deposit amount in the Trust's Bitcoin Account, the Bitcoin Custodian will notify the Transfer Agent, the Authorized Participant and the Sponsor that the bitcoin has been deposited. The Transfer Agent will then direct DTC to credit the number of Shares created to the Authorized Participant's DTC account.

Redemption Procedures

According to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets. Accordingly, on any Business Day, an Authorized Participant may place an order with the Transfer Agent to redeem one or more Creation Baskets. Redemption orders must be placed by 4:00 p.m. ET or the close of regular trading on the Exchange, whichever is earlier. A redemption order will be effective on the date it is received by the Transfer Agent.

The redemption distribution from the Trust consists of a transfer of bitcoin to the redeeming Authorized Participant corresponding to the number of Shares being redeemed. The redemption distribution due from the Trust will be delivered once the Transfer Agent notifies the Bitcoin Custodian and the Sponsor that the Authorized Participant has delivered the Shares represented by the Creation Baskets to be redeemed to the Transfer Agent's DTC account. If the Transfer Agent's DTC account has not been credited with all of the Shares of the Creation Baskets to be redeemed, the redemption distribution will be delayed until such time as the Transfer Agent confirms receipt of all such Shares.

Once the Transfer Agent notifies the Bitcoin Custodian and the Sponsor that the Shares have been received in the Transfer Agent's DTC account, the

Sponsor will instruct the Bitcoin Custodian to transfer the redemption distribution from the Trust's Bitcoin Account to the Authorized Participant.

Availability of Information

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA'').

In addition, the Trust's website will display the applicable end of day closing NAV. The daily holdings of the Trust will be available on the Trust's website before 9:30 a.m. E.T. The Trust's website will also include a form of the prospectus for the Trust that may be downloaded. The website will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for the Trust. The Trust's website will include (1) the prior Business Day's trading volume, the prior Business Day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of NAV calculation (''Bid/Ask Price'') against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The Trust's website will be publicly available prior to the public offering of Shares and accessible at no charge.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Trust.[6] Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

If the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.201–E. The trading of the Shares will be subject to NYSE Arca Rule 8.201–E(g), which sets forth certain restrictions on firms that have been issued an Equity Trading Permit (''ETP Holders'') to act as registered Market Makers in Commodity-Based Trust Shares to facilitate surveillance. The Exchange represents that, for initial and continued listing, the Trust will be in compliance with Rule 10A–3 [7] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares of the Trust will be outstanding at the commencement of trading on the Exchange.

Surveillance

The Exchange represents that trading in the Shares of the Trust will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[8] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (''CSSA'').[9] The Exchange is also able to obtain information regarding trading in the Shares in connection with ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolios of the Trust, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an information bulletin (the ''Information Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares; (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to

[6] *See* NYSE Arca Rule 7.12–E.

[7] 17 CFR 240.10A–3.

[8] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[9] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of the Trust may trade on markets that are members of ISG or with which the Exchange has in place a CSSA.

learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding portfolio holdings is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (5) trading information.

Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Rule 9.2–E(a) in an Information Bulletin. Specifically, ETP Holders will be reminded in the Information Bulletin that, in recommending transactions in the Shares, they must have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such ETP Holder, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that ETP Holders must make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such ETP Holder or registered representative in making recommendations to the customer.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Information Bulletin will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses described in the Registration Statement.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [10] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change satisfies the requirements of Section 6(b)(5), as discussed in more detail below.

The Commission has approved numerous series of Trust Issued Receipts,[11] including Commodity-Based Trust Shares,[12] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, and, in particular, the requirement that (i) a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) an exchange proposal be designed, in general, to protect investors and the public interest.

As discussed below, the Exchange, as the listing exchange for the Shares, and the CME, a regulated market of significant size relating to bitcoin, are both members of ISG, the purpose of which is ''to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulation and trading abuses.'' [13] In addition, the Sponsor believes that, on the whole, the manipulation concerns previously articulated by the Commission have since been significantly mitigated, and do not exceed those that exist in the markets for other commodities that underly securities listed on U.S. national securities exchanges. Specifically, significant increase in trading volume and open interest in the bitcoin futures market, growth of liquidity in the spot market for bitcoin, and certain features of the Shares mitigate the manipulation concerns expressed by the Commission when it last reviewed exchange proposals to list a bitcoin exchange-traded product (''ETP'').

The proposed rule change is designed to protect investors and the public interest as an investment in the Trust would provide investors with exposure to bitcoin in a manner that may be more efficient, more convenient and more regulated than the purchase of bitcoin or other investment products that provide exposure to bitcoin.

For example, the Sponsor notes that OTC bitcoin funds, which have attracted significant investor interest, offer exposure to bitcoin in a similar manner as the Trust. However, OTC bitcoin funds do not offer a creation or redemption mechanism that would keep their shares trading in line with their NAVs and, as a result, OTC bitcoin funds have historically traded at significant premiums or discounts compared to their NAVs. In contrast, when the Trust's Shares trade at a premium or discount compared to their NAV, creation or redemption can be facilitated by the Authorized Participants to drive the value of the Shares towards their NAV. Notably, investors in OTC bitcoin funds also have historically borne significantly higher fees and expenses than those that would be borne by investors in the Trust.

Additionally, the Sponsor notes that investors holding bitcoin through a cryptocurrency ''exchange'' often face credit risk to the exchange for cash balances, and often face risk of loss or theft of their bitcoin as a result of the exchange using internet-connected storage (commonly known as ''hot'' wallets) and/or having poor private key management (*e.g.,* insufficient password protection, lost key, etc.). In the Bitcoin Custodian, the Trust is holding bitcoin in 100% ''cold'' storage, meaning the entire storage process is done completely offline, with a regulated and licensed entity applying industry best practices.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

When considering whether an exchange's proposal to list bitcoin-based ETPs is designed to prevent fraudulent and manipulative acts and practices, the Commission requires that an exchange demonstrate that there is a CSSA in place with a regulated market of significant size relating to the underlying assets.[14]

[10] 15 U.S.C. 78f(b)(5).

[11] *See* Exchange Rule 8.200–E.

[12] Commodity-Based Trust Shares, as described in Exchange Rule 8.201–E, are a type of Trust Issued Receipt.

[13] *See https://isgportal.org/overview.*

[14] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since 'they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance-sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the Act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[15] Sponsors of proposed bitcoin-based ETPs in particular have attempted to demonstrate that other means besides surveillance-sharing agreements are sufficient to prevent fraudulent and manipulative acts and practices, and in particular have attempted to demonstrate that the bitcoin market is ''uniquely'' and ''inherently'' resistant to fraud and manipulation.[16] Such resistance to fraud and manipulation must be novel and beyond those protections that exist in traditional commodity markets or equity markets for which the Commission has long required surveillance-sharing agreements in the context of listing derivative securities products. To date, exchanges proposing rule changes to list bitcoin ETFs have not been able to establish that the relevant bitcoin market possesses a resistance to manipulation that is unique beyond that of traditional security or commodity markets such that it is inherently resistant to manipulation.

The Exchange understands the Commission's focus on potential manipulation of a bitcoin-based ETP in prior disapproval orders, including the Wilshire Phoenix Order, and believes that such concerns have since been largely mitigated. The Exchange believes that increases in investor participation in and institutional adoption of bitcoin have facilitated the maturation of the bitcoin trading ecosystem.

However, the Exchange is not required to demonstrate ''other means to prevent fraudulent and manipulative acts and practices,'' such as the assertion that the relevant underlying bitcoin market is ''unique'' or ''inherently'' resistant to manipulation, if it can establish that it has a CSSA with a regulated bitcoin market of significant size, or that both the Exchange and the relevant futures market, in this case, the CME, hold common membership in ISG. To this end, the Exchange represents that both the Exchange and CME are members of the ISG. The remaining determination to be made is whether the CME bitcoin futures market constitutes a market of significant size, which the Exchange contends that it does, unlike at the time of the Wilshire Phoenix Order. In the context of this standard, the terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which (a) there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to successfully manipulate the ETP, so that a surveillance-sharing agreement would assist in detecting and deterring misconduct, and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[17]

(a) Manipulation of the ETP

The significant growth in trading volumes, open interest, large open interest holders, and total market participants in the bitcoin futures market since the Wilshire Phoenix Order was issued is reflective of that market's growing influence on the spot price of bitcoin.

Some academic research[18] suggests that the bitcoin futures market has been leading bitcoin spot market price discovery since as early as 2018. However, in the Wilshire Phoenix Order, the Commission noted that academic research was, at the time, inconclusive as to the influence of the bitcoin futures market on price discovery in bitcoin spot markets, and noted specifically that existing research did not focus appropriately on lead-lag analyses, or on the influence of non-U.S. bitcoin spot market.[19] To this end, NYDIG has developed more recent proprietary research, including lead-lag analyses, that demonstrates that prices in the CME bitcoin futures market do indeed lead prices in the bitcoin spot market, including non-U.S. bitcoin spot markets. This finding supports the thesis that a market participant attempting to manipulate the Shares would have to trade on that market to manipulate the ETP.

Because Shares can only be created or redeemed in kind, and further because the Sponsor fee is accrued with respect to the quantity of bitcoin held by the Trust and paid in kind by the Trust, the Trust receives and holds only bitcoin. This substantially reduces the potential for manipulation of the number of Shares created or redeemed, which therefore substantially reduces the potential for shareholders to be harmed by manipulation.

NYDIG's research shows that the bitcoin futures market is one of the primary venues that market participants use to transact large exposures to bitcoin. This can be attributed to multiple factors, such as institutional familiarity with futures margining and settlement processes, the simplicity of cash settlement instead of physical settlement in a novel asset, and the efficient leverage offered by exchange margining.

In contrast to the efficient leverage offered through the futures market, many bitcoin spot trading venues require full pre-funding of trading, which means it would be highly capital intensive to ''spoof'' or ''layer'' order books on spot trading venues. This further supports NYDIG's conclusion that if a market participant intended to manipulate the price of bitcoin, and thereby the Shares, the bitcoin futures market is the one that would be manipulated first.

As such, part (a) of the significant market test outlined above is satisfied and that common membership in ISG

ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' *See* Securities Exchange Act Release No. 88284 (Feb. 26, 2020), 85 FR 12595 (Mar. 3, 2020) (the ''Wilshire Phoenix Order'') at 12596.

[15] *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the ''Winklevoss Order'') at 37580. The Commission has also specifically noted that it ''is not applying a 'cannot be manipulated' standard; instead, the Commission is examining whether the proposal meets the requirements of the [Act] and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the [Act] have been met.'' *Id.* at 37582.

[16] *See* Winklevoss Order, 83 FR at 37580, 37582–91; *see also* Securities Exchange Act Release No. 87267 (Oct. 9, 2019), 84 FR 55382 (Oct. 16, 2019) (the ''Bitwise Order'') at 55383, 55385–406. The Commission noted that ''the Winklevoss Order addressed an assertion that 'bitcoin and bitcoin [spot] markets' generally, as well as one bitcoin trading platform specifically, have unique resistance to fraud and manipulation; and the Bitwise Order addressed the assertion that prices from at least certain bitcoin trading platforms ('the 'real' bitcoin spot market as opposed to the 'fake' and non-economic bitcoin spot market') possessed such unique resistance.'' *See* Wilshire Phoenix Order at 12597.

[17] *See* Wilshire Phoenix Order at 12596.

[18] *See* Hu, Y., Hou, Y. and Oxley, L. (2019). ''What role do futures markets play in Bitcoin pricing? Causality, cointegration and price discovery from a time-varying perspective'' (available at: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7481826/*). This academic research paper concludes that ''There exist no episodes where the Bitcoin spot markets dominates the price discovery processes with regard to Bitcoin futures. This points to a conclusion that the price formation originates solely in the Bitcoin futures market. We can, therefore, conclude that the Bitcoin futures markets dominate the dynamic price discovery process based upon time-varying information share measures. Overall, price discovery seems to occur in the Bitcoin futures markets rather than the underlying spot market based upon a time-varying perspective.''

[19] *See* Wilshire Phoenix Order at 12613.

between the Exchange and CME would assist the Exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

According to the Sponsor, trading in the Shares would not be the predominant force on prices in the bitcoin futures market (or spot market) given the significant volume in the bitcoin futures market (in excess of $2.5 billion in average daily volume), the size of bitcoin's market cap (in excess of $1 trillion), and the significant liquidity available in the spot market (in excess of $2.5 billion in average daily volume, in each case as of April 30, 2021).

In addition, NYDIG performed a conservative analysis, considering only a small subset of spot trading venues, that concludes that the cost to buy or sell $5 million worth of bitcoin averages roughly 20 basis points.[20] For a $10 million market order, the cost to buy or sell is roughly 40 basis points. This is comparable to the liquidity of existing commodity ETPs. Using more sophisticated execution strategies and additional liquidity sources would likely result in a lower cost to trade.

As such, the overall size of the bitcoin market and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact supports the Sponsor's belief that the Shares are unlikely to become a predominant force on pricing in either the bitcoin spot or bitcoin futures markets, satisfying part (b) of the test outlined above.

The proposed rule change is also designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E, which involve the maintenance of surveillance procedures by the Exchange for the Shares. The Exchange has in place surveillance procedures that are sufficiently robust to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain information regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets that are members of ISG or with which the Exchange has in place a CSSA. Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

(ii) Designed To Protect Investors and the Public Interest

The Exchange believes the proposed rule change is designed to protect investors and the public interest.

With the growth of OTC bitcoin funds, so too has grown the potential risk to U.S. investors. Significant and prolonged premiums and discounts, significant premium/discount volatility, high fees, insufficient disclosures, limited liquidity to trade or borrow shares, and the lack of surveillance and oversight through a listed exchange are putting U.S. investor money at risk in ways that could potentially be eliminated through access to the Shares. For example, the OTC bitcoin fund with the largest assets under management in the United States returned 46.41% year-to-date through April 30, 2021 while spot bitcoin returned 95.61% over the same period. The deviation in price performance can be attributed to the fluctuation in NAV of this fund.

As such, the Sponsor believes that this proposed rule change would act to limit the risk to U.S. investors that are increasingly seeking exposure to bitcoin, with benefits such as the elimination of significant and prolonged premiums and discounts, the reduction of significant premium/discount volatility, the reduction of management fees through meaningful competition, the avoidance of risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure, and substantially greater surveillance and regulatory oversight.

The Exchange also notes there is a considerable amount of bitcoin price and market information available on public websites and through professional and subscription services. Investors may obtain, on a 24-hour basis, bitcoin pricing information based on the spot price for bitcoin from various financial information service providers. The closing price and settlement prices of bitcoin are readily available from the Bitcoin exchanges and other publicly available websites. In addition, such prices are published in public sources, or on-line information services such as Bloomberg. The Trust will provide daily website disclosure of its bitcoin holdings, net asset value, and closing price daily.

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Additionally, the Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares and of the suitability requirements of NYSE Arca Rule 9.2–E(a). The Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Information Bulletin will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will disclose that information about the Shares will be publicly available on the Trust's website.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

[20] These statistics are based on three random daily samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Bitstamp and Itbit from January 1, 2021 to April 30, 2021.

As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a CSSA. In addition, as noted above, investors will have ready access to information regarding the Trust's bitcoin holdings, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, and in the best interest of investors and the public at large.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of a new type of Commodity-Based Trust Share based on the price of bitcoin that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2021–57 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–2021–57. 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–2021–57 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15197 Filed 7–16–21; 8:45 am]

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[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92389; File No. SR–CBOE–2021–039]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule With Respect to Certain Fees Related to Qualified Contingent Cross Orders and the Clearing Trading Permit Holder Fee Cap

July 13, 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 July 1, 2021, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend the Fees Schedule with respect to certain fees related to Qualified Contingent Cross orders and the Clearing Trading Permit Holder (''TPH'') Fee Cap. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 its Fees Schedule with respect to Qualified Contingent Cross (''QCC'') transaction fees and the Clearing TPH fee cap.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 15% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to competitive pricing, the Exchange, like other options exchanges, offers rebates and assesses fees for certain order types executed on or routed through the Exchange.

By way of background, a QCC order is comprised of an 'initiating order' to buy (sell) at least 1,000 contracts, coupled with a contra-side order to sell (buy) an equal number of contracts and that for complex QCC transactions, the 1,000 contracts minimum is applied per leg. Currently, the Exchange assesses no fee for Customer (''C'' capacity), and Professional (''U'' capacity), and collectively referred to as ''customer transactions'' which are identified by fee code ''QC'') QCC transactions and $0.17 per contract side for non-Customer transactions and non-Professional transactions (collectively referred to as ''non-customer transactions'' which are identified by fee code ''QN''). In addition, the Exchange provides a $0.10 per contract credit for the initiating order side, regardless of origin code. Now, the Exchange proposes to increase the per contract credit for the initiating QCC order from $0.10 to $0.11 per contract. The proposed change is intended to incentivize TPHs to direct QCC order flow to the Exchange. Additionally, to offset the cost associated with the credit increase, the Exchange proposes to increase the transaction fee for QCC trades applied to non-customer transactions from $0.17 to $0.18 per contract. The proposed credit[4] and fee[5] change are in line with, yet also competitive with, rates assessed by other options exchanges.

The Exchange also applies a transaction fee cap of $55,000 per month per Clearing TPH for non-facilitation transactions executed in AIM, open outcry, or as a QCC or FLEX transaction in all products except Sector Indexes and products in Underlying Symbol List A as provided in footnote 34 of the Fees Schedule. The Exchange proposes to increase such fee cap to $65,000 per month per Clearing TPH. The proposed fee cap is in line with, albeit lower than, similar fee caps applied by other Exchanges.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Exchange Act of 1934 (the ''Act''),[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Trading Permit Holders (''TPHs'') and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)[9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all TPHs.

The Exchange believes that the proposed amendments to the Fees Schedule are reasonable, equitable and not unfairly discriminatory. In particular, the Exchange believes the proposal to increase the fee assessed to non-customer QCC trades is reasonable because the proposed fee is less than fees assessed for similar transactions on other exchanges.[10] Furthermore, the proposed fee increase is intended to offset the cost associated with the proposed credit increase applied to the initiating order of a QCC trade. The Exchange believes the proposed fee increase is equitable and not unfairly discriminatory because it will apply equally to all non-customer transactions and the proposed change reflects a competitive pricing structure designed to compete with other exchanges that similarly assess fees to these market participants.

The Exchange also believes the proposed credit increase applied to the initiating order of a QCC trade is reasonable because it is intended to incentivize market participants to direct their QCC order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all TPHs. Additionally, the Exchange believes the proposed increase to the Clearing TPH transaction fee cap is

[3] *See* Cboe Global Markets U.S. Options Monthly Market Volume Summary (June 29, 2021), available at *https://markets.cboe.com/us/options/market_statistics/*.

[4] *See e.g.,* Cboe EDGX Options Fees Schedule, footnote 7, which offers rebates ranging from $0.14 up to $0.26 based on QCC volume thresholds.

[5] *See e.g.,* NYSE American Options Fee Schedule, Section I, paragraph F ''QCC Fees & Credits'', which provides that non-customer participants excluding specialists and e-specialists, are assessed a fee of $0.20 per contract to volume executed as part of a QCC trade. *See also* MIAX Options Exchange Fee Schedule, Transaction Fees, QCC Fees, which assesses fees ranging from $0.00 up to $0.17 per contract for QCC trades depending on the type of market participant and initiator of the order.

[6] *See e.g.,* NYSE American Options Fee Schedule, Section I. paragraph I ''Firm Monthly Fee Cap'', which provides a fee cap ranging from $65,000 up to $100,000 per month per firm for manual transactions. *See also* PHLX Options Pricing Schedule, Section 4, Fee per contract, which provides a monthly fee cap of $75,000.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f.(b)(5).

[10] *Supra* note 5.

reasonable because it is in line with similar fee caps offered on another exchange.[11] The Exchange believes the proposed credit increase and fee cap increase are equitable and not unfairly discriminatory because they will each apply to all market participants equally.

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. First, the Exchange notes that the proposed changes apply uniformly to similarly-situated TPHs. The Exchange believes the proposed rule change serves to increase intramarket competition by incentivizing TPHs to direct their QCC orders to the Exchange, which will bring greater volume and liquidity, thereby benefitting all market participants by providing more trading opportunities and tighter spreads. Further, the Exchange notes that other Exchanges provide similar fees and credits as it relates to QCC transactions, and also provide similar fee caps.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. TPHs have numerous alternative venues they may participate on and direct their order flow, including 15 other options exchanges. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 15% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchanges if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange believes that the proposed fee changes are comparable to that of other exchanges offering similar functionality. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from TPHs or other interested parties.

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) of the Act [12] and paragraph (f) of Rule 19b–4 [13] 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2021–039 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–CBOE–2021–039. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–039 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15193 Filed 7–16–21; 8:45 am]

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[11] *Supra* note 6.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92387; File No. SR–BOX–2021–06]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Rules Governing the Trading of Equity Securities on the Exchange Through a Facility of the Exchange Known as Boston Security Token Exchange LLC

July 13, 2021.

On May 12, 2021, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules governing the listing and trading of equity securities on the Exchange through a facility of the Exchange known as the Boston Security Token Exchange LLC (''BSTX''). The proposed rule change was published for comment in the **Federal Register** on June 2, 2021.[3] The Commission has received comment letters on the proposed rule change.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 17, 2021.

The Commission hereby is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates August 31, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–BOX–2021–06).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15191 Filed 7–16–21; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 92017 (May 25, 2021), 86 FR 29634.

[4] Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-box-2021-06/srbox202106.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92380; File No. SR–FICC–2021–006]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Clearing Agency Model Risk Management Framework

July 13, 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 July 7, 2021, Fixed Income Clearing Corporation (''FICC'') 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. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(1) 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 clarifies the scope of the Clearing Agency Model Risk Management Framework (''Framework'') of FICC and its affiliates The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC,'' and together with FICC, the ''CCPs,'' and the CCPs together with DTC, the ''Clearing Agencies'').[5] The Framework has been adopted by the Clearing Agencies to support their compliance with Rule 17Ad–22(e) (the ''Covered Clearing Agency Standards'').[6] The proposed rule change [7] would amend the Framework to clarify that the Framework applies solely to models [8] utilized by the Clearing Agencies that are subject to the model risk management requirements set forth in Rule 17Ad–22(e)(4), (e)(6), and (e)(7) under the Act.[9] The proposed rule change also makes other technical and clarifying changes to the text, as more fully described below.

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

The proposed rule change clarifies the scope of the Framework to make clear that it applies solely to models that are subject to Rule 17Ad–22(e)(4), (e)(6), and (e)(7).[10] The proposed rule change also makes other technical and clarifying changes to the text.

[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)(1).

[5] The Framework sets forth the model risk management practices that the Clearing Agencies follow to identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework is filed as a rule of the Clearing Agencies. *See* Securities Exchange Act Release No. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File Nos. SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008) (''2017 Notice'') and Securities Exchange Act Release No. 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File Nos. SR–DTC–2020–008; SR–FICC–2020–004; SR–NSCC–2020–008) (''2020 Notice'') (collectively, the MRMF Filings'').

[6] 17 CFR 240.17Ad–22(e). Each of DTC, NSCC and FICC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5) and must comply with Rule 17Ad–22(e).

[7] Amending the Framework does not require any changes to the Rules, By-Laws and Organization Certificate of DTC, the Rulebook of the Government Securities Division of FICC, the Clearing Rules of the Mortgage-Backed Securities Division of FICC, or the Rules & Procedures of NSCC, because the Framework is a standalone document. *See* MRMF Filings, *supra* note 5.

[8] *See infra* note 16 for the definition of ''model'' as adopted by the Clearing Agencies pursuant to the Framework.

[9] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[10] *Id.*

Background

The Framework is maintained by the Clearing Agencies to support their compliance with the requirements of the Covered Clearing Agency Standards relating to model risk management. The Covered Clearing Agency Standards require that the Clearing Agencies take a variety of steps to manage the models that they employ in identifying, measuring, monitoring, and managing their respective credit exposures and liquidity risks, including that the Clearing Agencies conduct daily backtesting of model performance, periodic sensitivity analyses of models, and annual validation of models.[11]

The Framework outlines the applicable regulatory requirements described above, describes the risks that the Clearing Agencies' model risk management program are designed to mitigate, and sets forth specific model risk management practices and requirements adopted by the Clearing Agencies in order to ensure compliance with the Covered Clearing Agency Standards. These practices and requirements include, among other things, the maintenance of a model inventory, a process for rating model materiality and complexity, processes for performing model validations and resolving findings identified during model validation, and processes for model performance monitoring, including backtesting and sensitivity analyses. The Framework also describes applicable internal ownership and governance requirements.[12]

The Depository Trust & Clearing Corporation (''DTCC''), the parent company of the Clearing Agencies, has established a robust model risk management program, which applies to models employed across multiple business lines and corporate functions.[13] DTCC may implement changes in its model risk management program from time to time, some of which changes may impact only lower-risk, lower-materiality models that are not subject to the specific model risk management requirements of the Covered Clearing Agency Standards. The Clearing Agencies previously adopted changes to the Framework in connection with proposed enhancements to their model risk management program, which rule changes also deleted the defined term ''Clearing Agency Model'' on grounds that the Framework related solely to models of the Clearing Agencies, and it was unnecessary to use the modifier ''Clearing Agency''.[14] In view of continued expansion of DTCC's model risk management program, however, the Clearing Agencies desire to avoid any doubt as to the applicability of the Framework to specific models, and therefore propose to adopt further clarifying changes to the text of the Framework.

Proposed Rule Change

Section 1 (Executive Summary) of the Framework recites the regulatory requirements applicable to model risk management for credit risk models, liquidity risk models, and margin models that are set forth in the Covered Clearing Agency Standards. The proposed rule change clarifies the Framework's scope by (i) amending Section 1 of the Framework to add a sentence that states that the Framework supports the Clearing Agencies in complying with their rule filing requirements under Rule 19b–4 [15] because the Framework itself is a rule that governs the Clearing Agencies' management of their credit risk, margin, and liquidity risk management models and (ii) adding a footnote that states that only those models that satisfy the definition of ''model'' set forth in Section 3.1 of the Framework, and that support the Clearing Agencies' compliance with the Standards, are models subject to the Framework and, in contrast, models of the Clearing Agencies that would satisfy the definition of ''model'' as set forth under Section 3.1 of the Framework, but do not support the Clearing Agencies' compliance with the Standards, are not subject to the Framework.[16] In this regard, the proposed rule change would also amend certain references to models in subsequent sections to refer to models ''subject to this Framework''. Specifically, the text ''subject to this Framework'' would modify references to models in (i) Section 3.1 with respect to (a) models to be added to the Clearing Agencies' model inventory and (b) models subject to validation as set forth in Section 2,[17] (ii) Section 3.2 (Model Materiality and Complexity) with respect to the assignment of complexity ratings to models,[18] (iii) Section 3.3 (Full Model Validation) with respect to a requirement relating to the validation of new models,[19] (iv) Section 3.4 (Periodic Model Validation) with respect to periodic validation of models,[20] (v) Section 3.5 (Model Change Management) with respect to models that require changes in either structure or technique, (vi) Section 3.7 (Resolution of Model Validation Findings) with respect to internal tracking and reporting relating to model validations [21] and (vii) Section 4.2 (Escalation) [22] with respect to internal

[11] *Id.*

[12] *See* MRMF Filings, *supra* note 5, for additional information on the contents of the Framework.

[13] DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency.

[14] *See* 2020 Notice, *supra* note 5.

[15] 17 CFR 240.19b–4.

[16] Pursuant to Section 3.1 of the Framework, the Clearing Agencies have adopted the following definition of ''model'': ''[M]odel'' refers to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates. A ''model'' consists of three components: An information input component, which delivers assumptions and data to the model; a processing component, which transforms inputs into estimates; and a reporting component, which translates the estimates into useful business information. The definition of 'model' also covers quantitative approaches whose inputs are partially or wholly qualitative or based on expert judgment, provided that the output is quantitative in nature. *See* 2017 Notice, *supra* note 5. *See also* Supervisory Guidance on Model Risk Management, SR Letter 11–7 Attachment, dated April 4, 2011, issued by the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, *available at https://www.federalreserve.gov/supervisionreg/srletters/sr1107a1.pdf,* page 3.

[17] Also in this regard, the applicable sentence that this reference would be added to would also replace the words ''All models (including, without limitation, all credit risk models margin models, and liquidity risk models)'' with ''All models.'' The described reference to ''subject to this Framework'' would be added after the newly added text ''All models.''

[18] In this instance, the new text ''subject to this Framework'' would be preceded with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . model that is subject to this Framework . . . .''

[19] Similar to the prior reference from Section 3.1, the added reference to ''subject to this Framework'' in Section 3.3 would be preceded with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . new model that is subject to this Framework . . . .''

[20] Similar to the prior reference from Section 3.3, the added reference to ''subject to this Framework in Section 3.4 would be followed with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . model subject to this Framework that is . . . .''

[21] The reference to model in this instance also refers to a new model or a model change and the applicable text reads ''. . . new model or model change . . . .'' To improve the flow of the text, the words ''or model change'' would be deleted and ''or changed'' would be added after ''new.'' Also, the addition of ''subject to this Framework'' would be preceded by newly added words ''that is'' so that the reference to ''model'' in this case refers to ''. . . new or changed model that is subject to this Framework . . . .''

[22] In this instance the existing text does not use the word ''model'' even though it is referencing the escalation of issues relating to models. The applicable sentence currently begins with ''[a]ll model performance monitoring oversight concerns . . . .''

escalation of model performance monitoring oversight concerns.[23]

The proposed rule change makes several other technical and clarifying changes to the text of the Framework. It revises a sentence in Section 1 that currently states ''FICC/GSD, FICC/MBSD, and NSCC are each a ''Central Counterparty'' or ''CCP'' and are collectively referred to as the ''Central Counterparties'' or ''CCPs''. The proposed revisions to this sentence (i) changes the first reference to ''Central Counterparty'' from a capitalized term to an uncapitalized term, (ii) deletes the second reference to this term in this sentence (shown as ''Central Counterparties'') such that ''CCP'' will be the sole defined term used to described central counterparties, and (iii) adds ''below'' after the words ''referred to.''

It defines a term for ''Clearing Agency Model Documentation'' to reduce the repetition of listing numerous documents that are subordinate to the Framework with respect to model risk management. The proposed rule change updates the titles of certain Clearing Agency Model Documentation.[24] It also consolidates a reference to supplementary model risk documentation applicable to the Clearing Agencies that may be created from time to time into the newly defined term ''Clearing Agency Model Documentation''. The proposed rule change adds this defined term to three sentences in Section 1 to replace references in the section to specifically named model documentation and supplemental model documentation. It also consolidates two references that respectively provide that the documentation that is specifically named in the Framework, and the supplemental documentation that may be created, are subordinate to the Framework and are reasonably and fairly implied by the Framework, into one such reference with respect to Clearing Agency Model Documentation.

The proposed rule change updates prior references to the Model Validation & Control unit (defined in the Framework as ''MVC''), the name of which has recently changed, to instead refer generically to the unit within the Clearing Agencies' Group Chief Risk office that performs second-line model risk management functions. This generic reference to this unit would be defined as ''MRM'' in the Framework and, therefore, all references to ''MVC'' would be replaced with ''MRM'' beginning from the first use of ''MVC'' in Section 3, and with respect to all subsequent references to ''MVC,'' through and including the last reference to ''MVC'' in the second to last paragraph of Section 5.

In addition, a sentence in Section 3.1 that states ''[a]ll Model Validations are performed by MVC, which consists of qualified persons who are free from influence from the persons responsible for the development or operation of the models being validated, as required by the risk management standards described in Section 2[.]'' would be revised to delete the clause ''as required by the risk management standards described in Section 2'' and the comma immediately preceding that clause would be deleted. This clause is unnecessary because it follows in a paragraph that already makes reference to the referenced ''risk management standards'' in a similar context.

Also, a sentence in Section 3.8 describes that as part of model performance monitoring, on at least a monthly basis, a sensitivity analysis is performed on each CCP's margin models, the key parameters and assumptions for backtesting of such margin models are reviewed, and modifications will be considered to ensure the backtesting practices are appropriate for determining the adequacy of such CCP's margin resources. This sentence ends with a clause that states ''which Quantitative Risk Management (''QRM'') performs as required by the risk management standards described in Section 2.'' The reference to the requirements of Section 2 is unnecessary when naming the group that performs these tasks. Therefore, Clearing Agencies will delete the clause referencing these requirements, and a comma that proceeds it, from the sentence in Section 3.8 described immediately above, and add a new sentence, to follow the existing sentence, stating that Quantitative Risk Management performs these functions, without referencing the requirements described in Section 2. The new sentence will read ''Quantitative Risk Management (''QRM'') performs these functions.'' In addition, in this same sentence, the proposed rule change will delete ''a'' that currently appears before the words ''sensitivity analysis''.

The proposed rule change also makes certain technical and grammatical corrections, including elimination of unused or misapplied defined terms. The proposed rule change deletes the text ''in compliance with applicable legal requirements'' from sentence in Section 1 (Executive Summary) that states that Section 3 of the Framework describes key aspects of the Framework in terms of the manner in which the Clearing Agencies identify, measure, monitor, and manage model risk. Referring to compliance with applicable legal requirements with respect to an individual section is unnecessary, because Section 1 contains a separate reference indicating that the Framework itself is designed to support compliance with the legal requirements set forth under the Covered Clearing Agency Standards relating to model risk management. The proposed rule change would also modify the beginning of the sentence described immediately above that currently includes the text ''Section 3 describes key aspects of the Framework in terms of the manner in which the Clearing Agencies identify, measure, monitor, and manage model risk . . .'' to delete the words ''Framework in terms of the'' to simplify the text by deleting a clause that does not enhance the meaning of the sentence.

Finally, the proposed rule change replaces a reference to ''quantitative models'' to ''models'' in the Executive Summary under Section 1. This use of ''quantitative'' is redundant because, by definition, models covered by the Framework are quantitative in nature.[25]

2. Statutory Basis

FICC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[26] as well as Rule 17Ad–22(e)(4), (e)(6), and (e)(7) thereunder,[27] for the reasons described below.

Section 17A(b)(3)(F) of the Act[28] requires, *inter alia,* that the rules of a clearing agency be designed to assure the safeguarding of securities and funds

[23] *See* MRMF Filings, *supra* note 5, for additional information on the contents of these sections, and the Framework in general.

[24] Section 1 provides that this documentation each of which may be updated, amended, retired, or replaced from time to time. In this regard, the text would be updated to reflect that (i) ''DTCC Model Validation Procedures'' has been changed to ''Model Validation Procedures'', (ii) ''DTCC Model Performance Monitoring Procedures'' has been changed to ''DTCC Model Performance Standards & Policy'', and (iii) ''DTCC Backtesting Procedures'' has been changed to ''Clearing Agency Backtesting Procedures.'' Also, the ''Quantitative Risk Management Policy'' and ''Quantitative Risk Management Monitoring Procedures'' would be added as supporting documents.

[25] As noted above, pursuant to Section 3.1 of the Framework, the term ''model'' refers to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates.

[26] 15 U.S.C. 78q–1(b)(3)(F).

[27] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[28] 15 U.S.C. 78q–1(b)(3)(F).

which are in the custody or control of the clearing agency or for which it is responsible. As described above, the Framework describes the process by which the Clearing Agencies identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The quantitative models covered by the Framework are utilized by the Clearing Agencies, as applicable, to manage risks associated with the safeguarding of securities and funds that are in their custody or control or for which they are responsible, and the proposed rule change clarifies the applicability of the Framework to specific models, thereby better supporting the ability of the Clearing Agencies to perform these important risk management functions and comply with other regulatory requirements, including Rule 19b–4.

Rule 17Ad–22(e)(4), (e)(6), and (e)(7) [29] requires, *inter alia,* that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage risks associated with its credit risk management models, margin models, and liquidity risk management models, as applicable. As discussed above, the proposed rule change clarifies the applicability of the Framework to such types of models, thereby better supporting the ability of the Clearing Agencies to comply with these requirements. Therefore, the Clearing Agencies believe that the proposed changes to the Framework are consistent with Rule 17Ad–22(e)(4), (e)(6), and (e)(7).[30]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe that the proposed rule change would have any impact, or impose any burden, on competition because the proposed rule change simply clarifies the scope and administration of the Framework by the Clearing Agencies and would not effectuate any changes to the Clearing Agencies' model risk management tools as they currently apply to their respective Members or Participants.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to this proposal. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

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) [31] of the Act and paragraph (f) [32] 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–FICC–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–FICC–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 FICC and on DTCC's website (*http://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–FICC–2021–006 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15188 Filed 7–16–21; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[30] *Id.*

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92379; File No. SR–DTC–2021–013)]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Clearing Agency Model Risk Management Framework

July 13, 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 July 7, 2021, The Depository Trust Company (''DTC'') 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. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(1) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change clarifies the scope of the Clearing Agency Model Risk Management Framework (''Framework'') of DTC and its affiliates National Securities Clearing Corporation (''NSCC'') and Fixed Income Clearing Corporation (''FICC,'' and together with NSCC, the ''CCPs,'' and the CCPs together with DTC, the ''Clearing Agencies'').[5] The Framework has been adopted by the Clearing Agencies to support their compliance with Rule 17Ad–22(e) (the ''Covered Clearing Agency Standards'').[6] The proposed rule change[7] would amend the Framework to clarify that the Framework applies solely to models[8] utilized by the Clearing Agencies that are subject to the model risk management requirements set forth in Rule 17Ad–22(e)(4), (e)(6), and (e)(7) under the Act.[9] The proposed rule change also makes other technical and clarifying changes to the text, as more fully described below.

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

The proposed rule change clarifies the scope of the Framework to make clear that it applies solely to models that are subject to Rule 17Ad–22(e)(4), (e)(6), and (e)(7).[10] The proposed rule change also makes other technical and clarifying changes to the text.

Background

The Framework is maintained by the Clearing Agencies to support their compliance with the requirements of the Covered Clearing Agency Standards relating to model risk management. The Covered Clearing Agency Standards require that the Clearing Agencies take a variety of steps to manage the models that they employ in identifying, measuring, monitoring, and managing their respective credit exposures and liquidity risks, including that the Clearing Agencies conduct daily backtesting of model performance, periodic sensitivity analyses of models, and annual validation of models.[11]

The Framework outlines the applicable regulatory requirements described above, describes the risks that the Clearing Agencies' model risk management program are designed to mitigate, and sets forth specific model risk management practices and requirements adopted by the Clearing Agencies in order to ensure compliance with the Covered Clearing Agency Standards. These practices and requirements include, among other things, the maintenance of a model inventory, a process for rating model materiality and complexity, processes for performing model validations and resolving findings identified during model validation, and processes for model performance monitoring, including backtesting and sensitivity analyses. The Framework also describes applicable internal ownership and governance requirements.[12]

The Depository Trust & Clearing Corporation (''DTCC''), the parent company of the Clearing Agencies, has established a robust model risk management program, which applies to models employed across multiple business lines and corporate functions.[13] DTCC may implement changes in its model risk management program from time to time, some of which changes may impact only lower-risk, lower-materiality models that are not subject to the specific model risk management requirements of the Covered Clearing Agency Standards. The Clearing Agencies previously adopted changes to the Framework in connection with proposed enhancements to their model risk management program, which rule changes also deleted the defined term ''Clearing Agency Model'' on grounds that the Framework related solely to models of the Clearing Agencies, and it was unnecessary to use the modifier ''Clearing Agency''.[14] In view of continued expansion of DTCC's model risk management program, however, the Clearing Agencies desire to avoid any doubt as to the applicability of the Framework to specific models, and therefore propose to adopt further clarifying changes to the text of the Framework.

Proposed Rule Change

Section 1 (Executive Summary) of the Framework recites the regulatory requirements applicable to model risk management for credit risk models, liquidity risk models, and margin models that are set forth in the Covered Clearing Agency Standards. The proposed rule change clarifies the Framework's scope by (i) amending Section 1 of the Framework to add a sentence that states that the Framework supports the Clearing Agencies in complying with their rule filing requirements under Rule 19b–4[15] because the Framework itself is a rule that governs the Clearing Agencies' management of their credit risk, margin, and liquidity risk management models and (ii) adding a footnote that states that only those models that satisfy the definition of ''model'' set forth in Section 3.1 of the Framework, and that support the Clearing Agencies' compliance with the Standards, are models subject to the Framework and, in contrast, models of the Clearing Agencies that would satisfy the definition of ''model'' as set forth under Section 3.1 of the Framework, but do not support the Clearing Agencies' compliance with the Standards, are not

[5] The Framework sets forth the model risk management practices that the Clearing Agencies follow to identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework is filed as a rule of the Clearing Agencies. *See* Securities Exchange Act Release No. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File Nos. SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008) (''2017 Notice'') and Securities Exchange Act Release No. 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File Nos. SR–DTC–2020–008; SR–FICC–2020–004; SR–NSCC–2020–008) (''2020 Notice'') (collectively, the MRMF Filings'').

[6] 17 CFR 240.17Ad–22(e). Each of DTC, NSCC and FICC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5) and must comply with Rule 17Ad–22(e).

[7] Amending the Framework does not require any changes to the Rules, By-Laws and Organization Certificate of DTC, the Rulebook of the Government Securities Division of FICC, the Clearing Rules of the Mortgage-Backed Securities Division of FICC, or the Rules & Procedures of NSCC, because the Framework is a standalone document. *See* MRMF Filings, *supra* note 5.

[8] *See infra* note 16 for the definition of ''model'' as adopted by the Clearing Agencies pursuant to the Framework.

[9] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[10] *Id.*

[11] *Id.*

[12] *See* MRMF Filings, *supra* note 5, for additional information on the contents of the Framework.

[13] DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency.

[14] *See* 2020 Notice, *supra* note 5.

[15] 17 CFR 240.19b–4.

subject to the Framework.[16] In this regard, the proposed rule change would also amend certain references to models in subsequent sections to refer to models ''subject to this Framework''. Specifically, the text ''subject to this Framework'' would modify references to models in (i) Section 3.1 with respect to (a) models to be added to the Clearing Agencies' model inventory and (b) models subject to validation as set forth in Section 2,[17] (ii) Section 3.2 (Model Materiality and Complexity) with respect to the assignment of complexity ratings to models,[18] (iii) Section 3.3 (Full Model Validation) with respect to a requirement relating to the validation of new models,[19] (iv) Section 3.4 (Periodic Model Validation) with respect to periodic validation of models,[20] (v) Section 3.5 (Model Change Management) with respect to models that require changes in either structure or technique, (vi) Section 3.7 (Resolution of Model Validation Findings) with respect to internal tracking and reporting relating to model validations[21] and (vii) Section 4.2 (Escalation)[22] with respect to internal escalation of model performance monitoring oversight concerns.[23]

The proposed rule change makes several other technical and clarifying changes to the text of the Framework. It revises a sentence in Section 1 that currently states ''FICC/GSD, FICC/MBSD, and NSCC are each a ''Central Counterparty'' or ''CCP'' and are collectively referred to as the ''Central Counterparties'' or ''CCPs''. The proposed revisions to this sentence (i) changes the first reference to ''Central Counterparty'' from a capitalized term to an uncapitalized term, (ii) deletes the second reference to this term in this sentence (shown as ''Central Counterparties'') such that ''CCP'' will be the sole defined term used to described central counterparties, and (iii) adds ''below'' after the words ''referred to.''

It defines a term for ''Clearing Agency Model Documentation'' to reduce the repetition of listing numerous documents that are subordinate to the Framework with respect to model risk management. The proposed rule change updates the titles of certain Clearing Agency Model Documentation.[24] It also consolidates a reference to supplementary model risk documentation applicable to the Clearing Agencies that may be created from time to time into the newly defined term ''Clearing Agency Model Documentation''. The proposed rule change adds this defined term to three sentences in Section 1 to replace references in the section to specifically named model documentation and supplemental model documentation. It also consolidates two references that respectively provide that the documentation that is specifically named in the Framework, and the supplemental documentation that may be created, are subordinate to the Framework and are reasonably and fairly implied by the Framework, into one such reference with respect to Clearing Agency Model Documentation.

The proposed rule change updates prior references to the Model Validation & Control unit (defined in the Framework as ''MVC''), the name of which has recently changed, to instead refer generically to the unit within the Clearing Agencies' Group Chief Risk office that performs second-line model risk management functions. This generic reference to this unit would be defined as ''MRM'' in the Framework and, therefore, all references to ''MVC'' would be replaced with ''MRM'' beginning from the first use of ''MVC'' in Section 3, and with respect to all subsequent references to ''MVC,'' through and including the last reference to ''MVC'' in the second to last paragraph of Section 5.

In addition, a sentence in Section 3.1 that states ''[a]ll Model Validations are performed by MVC, which consists of qualified persons who are free from influence from the persons responsible for the development or operation of the models being validated, as required by the risk management standards described in Section 2[.]'' would be revised to delete the clause ''as required by the risk management standards described in Section 2'' and the comma immediately preceding that clause would be deleted. This clause is unnecessary because it follows in a paragraph that already makes reference to the referenced ''risk management standards'' in a similar context.

Also, a sentence in Section 3.8 describes that as part of model performance monitoring, on at least a monthly basis, a sensitivity analysis is performed on each CCP's margin models, the key parameters and assumptions for backtesting of such margin models are reviewed, and modifications will be considered to ensure the backtesting practices are appropriate for determining the adequacy of such CCP's margin resources. This sentence ends with a clause that states ''which Quantitative Risk Management (''QRM'') performs as required by the risk management standards described in Section 2.'' The reference to the requirements of Section

[16] Pursuant to Section 3.1 of the Framework, the Clearing Agencies have adopted the following definition of ''model'': ''[M]odel'' refers to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates. A ''model'' consists of three components: an information input component, which delivers assumptions and data to the model; a processing component, which transforms inputs into estimates; and a reporting component, which translates the estimates into useful business information. The definition of 'model' also covers quantitative approaches whose inputs are partially or wholly qualitative or based on expert judgment, provided that the output is quantitative in nature. *See* 2017 Notice, *supra* note 5. *See also* Supervisory Guidance on Model Risk Management, SR Letter 11–7 Attachment, dated April 4, 2011, issued by the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, *available at https://www.federalreserve.gov/supervisionreg/srletters/sr1107a1.pdf,* page 3.

[17] Also in this regard, the applicable sentence that this reference would be added to would also replace the words ''All models (including, without limitation, all credit risk models margin models, and liquidity risk models)'' with ''All models.'' The described reference to ''subject to this Framework'' would be added after the newly added text ''All models.''

[18] In this instance, the new text ''subject to this Framework'' would be preceded with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . model that is subject to this Framework . . . .''

[19] Similar to the prior reference from Section 3.1, the added reference to ''subject to this Framework'' in Section 3.3 would be preceded with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . new model that is subject to this Framework . . . .''

[20] Similar to the prior reference from Section 3.3, the added reference to ''subject to this Framework in Section 3.4 would be followed with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . model subject to this Framework that is . . . .''

[21] The reference to model in this instance also refers to a new model or a model change and the applicable text reads ''. . . new model or model change . . . .'' To improve the flow of the text, the words ''or model change'' would be deleted and ''or changed'' would be added after ''new.'' Also, the addition of ''subject to this Framework'' would be preceded by newly added words ''that is'' so that the reference to ''model'' in this case refers to ''. . . new or changed model that is subject to this Framework . . . .''

[22] In this instance the existing text does not use the word ''model'' even though it is referencing the escalation of issues relating to models. The applicable sentence currently begins with ''[a]ll model performance monitoring oversight concerns . . . .''

[23] *See* MRMF Filings, *supra* note 5, for additional information on the contents of these sections, and the Framework in general.

[24] Section 1 provides that this documentation each of which may be updated, amended, retired, or replaced from time to time. In this regard, the text would be updated to reflect that (i) ''DTCC Model Validation Procedures'' has been changed to ''Model Validation Procedures'', (ii) ''DTCC Model Performance Monitoring Procedures'' has been changed to ''DTCC Model Performance Standards & Policy'', and (iii) ''DTCC Backtesting Procedures'' has been changed to ''Clearing Agency Backtesting Procedures.'' Also, the ''Quantitative Risk Management Policy'' and ''Quantitative Risk Management Monitoring Procedures'' would be added as supporting documents.

2 is unnecessary when naming the group that performs these tasks. Therefore, Clearing Agencies will delete the clause referencing these requirements, and a comma that proceeds it, from the sentence in Section 3.8 described immediately above, and add a new sentence, to follow the existing sentence, stating that Quantitative Risk Management performs these functions, without referencing the requirements described in Section 2. The new sentence will read ''Quantitative Risk Management (''QRM'') performs these functions.'' In addition, in this same sentence, the proposed rule change will delete ''a'' that currently appears before the words ''sensitivity analysis''.

The proposed rule change also makes certain technical and grammatical corrections, including elimination of unused or misapplied defined terms. The proposed rule change deletes the text ''in compliance with applicable legal requirements'' from sentence in Section 1 (Executive Summary) that states that Section 3 of the Framework describes key aspects of the Framework in terms of the manner in which the Clearing Agencies identify, measure, monitor, and manage model risk. Referring to compliance with applicable legal requirements with respect to an individual section is unnecessary, because Section 1 contains a separate reference indicating that the Framework itself is designed to support compliance with the legal requirements set forth under the Covered Clearing Agency Standards relating to model risk management. The proposed rule change would also modify the beginning of the sentence described immediately above that currently includes the text ''Section 3 describes key aspects of the Framework in terms of the manner in which the Clearing Agencies identify, measure, monitor, and manage model risk . . .'' to delete the words ''Framework in terms of the'' to simplify the text by deleting a clause that does not enhance the meaning of the sentence.

Finally, the proposed rule change replaces a reference to ''quantitative models'' to ''models'' in the Executive Summary under Section 1. This use of ''quantitative'' is redundant because, by definition, models covered by the Framework are quantitative in nature.[25]

2. Statutory Basis

DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[26] as well as Rule 17Ad–22(e)(4), (e)(6), and (e)(7) thereunder,[27] for the reasons described below.

Section 17A(b)(3)(F) of the Act [28] requires, *inter alia,* that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. As described above, the Framework describes the process by which the Clearing Agencies identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The quantitative models covered by the Framework are utilized by the Clearing Agencies, as applicable, to manage risks associated with the safeguarding of securities and funds that are in their custody or control or for which they are responsible, and the proposed rule change clarifies the applicability of the Framework to specific models, thereby better supporting the ability of the Clearing Agencies to perform these important risk management functions and comply with other regulatory requirements, including Rule 19b–4.

Rule 17Ad–22(e)(4), (e)(6), and (e)(7) [29] requires, *inter alia,* that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage risks associated with its credit risk management models, margin models, and liquidity risk management models, as applicable. As discussed above, the proposed rule change clarifies the applicability of the Framework to such types of models, thereby better supporting the ability of the Clearing Agencies to comply with these requirements. Therefore, the Clearing Agencies believe that the proposed changes to the Framework are consistent with Rule 17Ad–22(e)(4), (e)(6), and (e)(7).[30]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe that the proposed rule change would have any impact, or impose any burden, on competition because the proposed rule change simply clarifies the scope and administration of the Framework by the Clearing Agencies and would not effectuate any changes to the Clearing Agencies' model risk management tools as they currently apply to their respective Members or Participants.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to this proposal. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

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) [31] of the Act and paragraph (f) [32] 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–DTC–2021–013 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–DTC–2021–013. This file

[25] As noted above, pursuant to Section 3.1 of the Framework, the term ''model'' refers to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates.

[26] 15 U.S.C. 78q–1(b)(3)(F).

[27] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[28] 15 U.S.C. 78q–1(b)(3)(F).

[29] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[30] *Id.*

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f).

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 DTC and on DTCC's website (*http://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–DTC–2021–013 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15187 Filed 7–16–21; 8:45 am]

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[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92377; File No. SR–Phlx–2021–40]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 4, Rules 3301A and 3301B

July 13, 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 July 2, 2021, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 4, Rule 3301B, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Presently, the Exchange is making functional enhancements and improvements to specific Order Attributes [3] that are currently only available via the RASH Order entry protocol.[4] Specifically, the Exchange will be upgrading the logic and implementation of these Order Types and Order Attributes so that the features are more streamlined across the Exchange Systems and order entry protocols, and will enable the Exchange to process these Orders more quickly and efficiently. Additionally, this System upgrade will pave the way for the Exchange to enhance the OUCH Order entry protocol [5] so that Participants may enter such Order Types and Order Attributes via OUCH, in addition to the RASH Order entry protocols.[6] The Exchange plans to implement its enhancement of the OUCH protocol sequentially, by Order Type and Order Attribute.[7]

To support and prepare for these upgrades and enhancements, the Exchange recently submitted two rule filings to the Commission that amended its rules pertaining to, among other things, Market Maker Peg Orders and Orders with Reserve Size.[8] The Exchange now proposes to further amend its Rules governing Order Attributes, at Rule 3301B. In particular, the Exchange proposes to adjust the current functionality of the Pegging [9] and Trade Now Attributes,[10] as described below, so that they align with how the System, once upgraded, will handle these Order Attributes going forward. The Exchange also proposes to amend the Midpoint Peg Post-Only Order Type, at Rule 3301A, to accommodate changes to the Trade Now Attribute.

[3] An ''Order Attribute'' is a set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Exchange Book when submitted to the System. *See* Equity 1, Section 1(b)(7).

[4] The RASH (Routing and Special Handling) Order entry protocol is a proprietary protocol that allows members to enter Orders, cancel existing Orders and receive executions. RASH allows participants to use advanced functionality, including discretion, random reserve, pegging and routing. See *http://nasdaqtrader.com/content/technicalsupport/specifications/TradingProducts/rash_sb.pdf.*

[5] The OUCH Order entry protocol is a proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. OUCH accepts limit Orders from members, and if there are matching Orders, they will execute. Non-matching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. OUCH only provides a method for members to send Orders and receive status updates on those Orders. See *https://www.nasdaqtrader.com/Trader.aspx?id=OUCH.*

[6] The Exchange designed the OUCH protocol to enable members to enter Orders quickly into the System. As such, the Exchange developed OUCH with simplicity in mind, and it therefore lacks more complex order handling capabilities. By contrast, the Exchange specifically designed RASH to support advanced functionality, including discretion, random reserve, pegging and routing. Once the System upgrades occur, then the Exchange intends to propose further changes to its Rules to permit participants to utilize OUCH, in addition to RASH, to enter order types that require advanced functionality.

[7] The Exchange notes that its sister exchange, The Nasdaq Stock Market, LLC (''Nasdaq''), has already filed similar proposed rule changes with the Commission. *See* Securities Exchange Act Release No. 34–92180 (June 15, 2021), 86 FR 33420 (June 24, 2021) (SR–NASDAQ–2021–044).

[8] *See* Securities Exchange Act Release No. 34–91263 (March 5, 2021), 86 FR 13950 (March 11, 2021) (SR–Phlx–2021–11); Securities Exchange Act Release No. 34–90558 (December 3, 2020), 85 FR 79231 (December 9, 2020) (SR–Phlx–2020–51).

[9] *See* Rule 3301B(d).

[10] *See* Rule 3301B(l).

Changes to Pegging Order Attribute

First, the Exchange proposes to amend Rule 3301B(d), which governs the Pegging Order Attribute. The Exchange offers three types of Pegging: Primary Pegging, Market Pegging, and Midpoint Pegging.[11] The Rule presently provides that if, at the time of entry, there is no price to which a Pegged Order can be pegged, the Order will be rejected, provided, however, that a Displayed Order that has Market Pegging, or an Order with a Non-Display Attribute that has Primary Pegging or Market Pegging, will be accepted at its limit price. The Exchange proposes to replace this text by stating that if, at the time of entry, there is no price to which a Pegged Order, that has not been assigned a Routing Order Attribute, can be pegged or pegging would lead to a price at which the Order cannot be posted, then the Order will not be immediately available on the Exchange Book and will be entered once there is a permissible price.[12] The Exchange proposes this change so as to enhance the manner in which the Exchange presently handles Pegged Orders in this scenario. Rather than reject such Orders outright, and require customers to continuously reenter the Orders thereafter until a pegging price emerges, which may cost them queue priority, the Exchange believes that it would be more efficient and customer-friendly to simply hold a Pegged Order until a permissible pegging price emerges.[13]

A similar rationale applies to the Exchange's proposal to cease accepting certain Market or Primary Pegged Orders at their limit prices if no pegging price is available. Because participants presumably prefer for their orders to post at the pegging price, the Exchange believes that participants would prefer for the Exchange to hold such orders until a permissible pegging price emerges, rather than post the orders at their limit prices.[14] [15]

The Exchange proposes similar changes to the paragraph of Rule 3301B(d) that applies to Pegged Orders entered through RASH or FIX that posted to the Exchange Book. The text presently provides that if the price to which an Order is pegged is not available, the Order will be rejected. The Exchange proposes instead to state that if the price to which an Order is pegged becomes unavailable or pegging would lead to a price at which the Order cannot be posted,[16] then the Exchange will remove the Order from the Exchange Book and re-enter it once there is a permissible price. Again, the Exchange proposes this change to enhance and make the System more efficient by providing for the Exchange to re-post the Pegged Orders rather than rejecting them when there is no permissible pegging price and requiring participants to re-enter them once a valid price becomes available.[17] The Exchange notes that the proposed change will not apply to Pegged Orders with Routing Attributes assigned to them; the existing Rule functionality will continue to apply to those Orders.

Rule 3301B(d) also subjects Pegging Orders to collars, meaning that any portion of a Pegging Order that would[18] execute, either on the Exchange or when routed to another market center, at a price of more than $0.25 or 5 percent worse than the NBBO at the time when the order reaches the System, whichever is greater, will be cancelled. Although the Rule states that it applies this collar to Orders with Primary and Market Pegging, the Exchange has always intended for the collar to also apply to Orders with Midpoint Pegging, and in practice, it does so. The failure of the Rule to reflect the application of the collar to Midpoint Pegged Orders was an unintended omission. The Exchange now proposes to revise Rule 3301B(d) to correct this omission.

Changes to the Trade Now Order Attribute

Additionally, the Exchange proposes to amend its rules governing the Trade Now Attribute, at Rule 3301B(l). Pursuant to Rule 3301B(l), Trade Now is an Order Attribute that allows a resting Order that becomes locked by an incoming Displayed Order to execute against a locking or crossing Order as a liquidity taker. The Exchange proposes to amend Trade Now in several respects.

First, the Exchange proposes to incorporate so-called ''Midpoint Trade Now'' functionality into the Trade Now Attribute, similar what Nasdaq did in a recent corresponding rule filing.[19] This

[11] *See* Rule 3301B(d) (defining ''Primary Pegging'' as pegging with reference to the inside quotation on the same side of the market, ''Market Pegging'' as pegging with reference to the inside quotation on the opposite side of the market, and ''Midpoint Pegging'' as pegging with reference to the midpoint between the inside bid and the inside offer).

[12] This change is applicable to Primary, Market and Midpoint Pegging Orders entered via RASH/FIX; OUCH/FLITE Midpoint Pegging behavior is not affected by this change. The Exchange also proposes to amend existing language in this provision which states that ''if the Inside Bid and Inside Offer are crossed or if there is no Inside Bid and/or Inside Offer, the Order will not be accepted.'' The proposed amendment would specify that this language applies only to Orders with Midpoint Pegging entered through OUCH or FLITE. The proposed changes to pegged orders entered through RASH or FIX will allow the Exchange to handle the Order more consistent with the customer intended instruction, and are necessary to facilitate forthcoming System enhancements.

[13] Meanwhile, the Exchange proposes to amend the Rule to state that if a Pegged Order is assigned a Routing Order Attribute, and a permissible pegging price is not available upon entry, then the Order will continue to be rejected. The Exchange proposes to retain existing practice for Pegged Orders with Routing Order Attributes because the Exchange is not yet prepared to make similar changes to such Orders, although it contemplates doing so in the near future.

[14] When a Pegged Order lacks a pegging price or a permissible pegging price, the System will not wait indefinitely for a pegging price or a permissible pegging price to become available. Instead, the System will cancel the Order if no permissible pegging price becomes available within one second after Order entry or after the Order was removed due to the lack of a permissible pegging price and no longer available on the Book. The Exchange may, in the exercise of its discretion, modify the length of this maximum time period by posting advance notice of the applicable new time period on its website.

[15] In this paragraph of Rule 3301B(d), the Exchange again proposes to state that it will continue to reject a Pegged Order entered through RASH or FIX when a permissible pegging price is unavailable, if the Pegged Order is assigned a Routing Order Attribute. The Exchange will continue to accept certain Market and Primary Pegged Orders at their limit price where they have Routing Order Attributes. The Exchange proposes to retain existing practice for Pegged Orders with Routing Order Attributes because the Exchange is not yet prepared to make similar changes to such Orders, although it contemplates doing so in the near future.

[16] An example of a scenario where pegging would lead to a price at which an Order cannot be posted is as follows. Assume that the NBBO is $0.0002 × $0.0003. A Primary Pegged Order to buy is entered with a passive offset amount of $0.0003. This would result in the Order being made unavailable by the Exchange as −$0.0001 is not a permissible price. Currently, the Exchange accepts such Orders at its limit price, and will post the Orders to the Exchange Book in accordance with the parameters that apply to the underlying Order Type.

[17] The Exchange proposes to apply a similar time limitation to the holding period prescribed above. Similarly, for an Order with Midpoint Pegging, if the Inside Bid and Inside Offer become crossed, or there is no Inside Bid or Inside Offer, the System will cancel the Order if no permissible price becomes available within one second after the Order was removed and no longer available on the Exchange Book (the Exchange may, in the exercise of its discretion modify the length of this one second time period by posting advance notice of the applicable time period on its website). For an Order with Midpoint Pegging with a Routing Attribute, the new one second time period will be applicable.

[18] Additionally, the Exchange proposes to replace the word ''would'' with ''could'' in this provision, so as to clarify that collars apply in circumstances in which Pegged Orders might execute, but do not necessarily do so. An example of a circumstance in which such Orders do not execute is as follows. Assume that the NBBO is $10.00 × $10.01. A Market Pegged Order to buy posts at $10.01. The NBBO then updates to $10.00 × $11.00. Because re-pricing and posting the Market Pegged Order would result in the Order being available on the Book and executable at $11.00 (outside of the collars), the Order will be canceled.

[19] *See* Securities Exchange Act Release No. 34–92180 (June 15, 2021), 86 FR 33420 (June 24, 2021) (SR–NASDAQ–2021–044). The Exchange notes that prior to SR–NASDAQ–2021–044, Midpoint Trade Now was a distinct Order Attribute in the Nasdaq rulebook, first introduced in 2018. *See* Securities Exchange Act Release No. 34–84621 (November 19, 2018), 83 FR 60514 (November 26, 2018) (SR–

functionality would allow a resting Order that becomes locked at its non-displayed price by an incoming Midpoint Peg Post-Only Order to execute against a locking or crossing Order as a liquidity taker. This functionality will allow market participants to have their Orders executed as a taker of liquidity should that Order become locked at its non-displayed price by a contra-side incoming Midpoint Peg Post-Only Order. This functionality will therefore promote an efficient and orderly market by allowing Orders in this scenario to execute and resolve a locked market. Similarly, allowing a subsequent Order to execute against a locking Midpoint Peg Post-Only Order if the resting Order that is locked by the Midpoint Peg Post-Only Order has not enabled the Trade Now functionality will also promote an efficient and orderly market by allowing the incoming Order in that scenario to execute and resolve an instance where Orders with a non-displayed price on both the buy and sell side of the market are priced equally but not executing against each other.

Next, the Exchange proposes to amend Rule 3301B(l) by streamlining and simplifying the instructions that participants must enter to address the handling of their orders in various locking or crossing scenarios.[20] Specifically, rather than require a participant to manually send a Trade Now instruction whenever an Order entered through OUCH or FLITE becomes locked, the proposed amended Rule will allow for a participant to enable Trade Now functionality on a port-level basis for all Order entry protocols and for all Order Types that support Trade Now, as well as on an order-by-order basis, for the Non-Displayed Order Type, when entered through OUCH or FLITE.[21] For Orders entered through RASH or FIX, Trade Now will be available on an order-by-order basis for all Order Types that support Trade Now. The proposal will not extend Trade Now functionality to new Order Types.[22] However, the Exchange notes that it proposes conforming changes to the Midpoint Peg Post-Only Order Type, at Rule 3301A, which already includes Trade Now, to accommodate the adoption of Midpoint Trade Now functionality.

The Exchange intends to implement the foregoing changes during the Third Quarter of 2021. The Exchange will issue an Equity Trader Alert at least 7 days in advance of implementing the changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[23] in general, and furthers the objectives of Section 6(b)(5) of the Act,[24] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that its proposed amendments to the Pegging Order Attribute, at Rule 3301B(d), are consistent with the Act. The proposals to eliminate the functionality that provides for the System to reject certain Pegged Orders that lack a permissible pegging price, or to post the Orders at their limit price, are consistent with the Act because they eliminate unwarranted inefficiencies that arise when participants must repeatedly re-enter rejected Pegged Orders until a permissible price becomes available.[25] [26] It is also consistent with the Act to maintain the existing practice in the Rule of rejecting a Pegged Order without a permissible pegging price where the Order has been assigned a Routing Attribute. The Exchange is not yet prepared to hold such Orders in the same way that it proposes to do so for Pegged Orders without Routing Attributes, although it contemplates doing so in the near future.

Moreover, the proposal to amend Rule 3301B(d) to state expressly that Midpoint Pegging Orders are subject to price collars, like Orders with Primary and Market Pegging, will correct an unintended omission and ensure that the Rule is consistent with existing Exchange practice and with customer expectations. The application of these collars will prevent Pegged Orders from having prices that deviate too far away from where the security was trading when the Order was first entered.[27]

The Exchange's proposals to amend its rules governing the Trade Now Attribute, at Rule 3301B(l), is consistent with the Act. First, it is consistent with the Act to add to Trade Now so-called ''Midpoint Trade Now'' functionality, which presently exists on Nasdaq. This functionality will allow market participants to have their Orders executed as a taker of liquidity should that Order become locked at its non-displayed price by a contra-side Midpoint Peg Post-Only Order. This functionality will therefore promote an efficient and orderly market by allowing Orders in this scenario to execute and resolve a locked market. Similarly, allowing a subsequent Order to execute against a locking Midpoint Peg Post-Only Order if the resting Order that is locked by the Midpoint Peg Post-Only Order has not enabled the Trade Now functionality will also promote an efficient and orderly market by allowing the incoming Order in that scenario to execute and resolve an instance where Orders with a non-displayed price on both the buy and sell side of the market

NASDAQ–2018–090). SR–NASDAQ–2021–044 incorporated Midpoint Trade Now into Trade Now.

[20] An example of a crossing scenario is as follows. A non-displayed Order to buy rests on the Book at $0.9995. Thereafter, a Post Only Order to sell is entered at $0.9994, which would post on the Book and display at $0.9994, thereby crossing the non-displayed Order as the price improvement requirements were not met.

[21] This proposed change in functionality for OUCH and FLITE is enabled by the migration of Trade Now to the Exchange's matching System.

[22] The Exchange proposes to add language to Rule 3301B(l) to state that Trade Now allows a resting Order that becomes locked ''or crossed, as applicable at its non-displayed price'' by the ''posted price'' of an incoming Displayed Order to execute against a locking or crossing Order(s) automatically. The Exchange proposes to add the phrase ''or crossed, as applicable,'' for completeness. It also proposes to add the phrases ''at its non-displayed price'' and ''posted price'' for purposes of clarity. They merely communicate that the incoming Displayed Order or Midpoint Peg Post-Only Order first posts to the Exchange Book, thereby locking or crossing the resting Order at its non-displayed price.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] The Exchange notes that as part of this proposed change, if there is no Pegging Price upon entry for a Displayed Order that has Market Pegging, or an Order with a Non-Display Attribute that has Primary Pegging or Market Pegging, then it will no longer accept such Orders at their limit price. The Exchange believes that this proposed change is consistent with the Act because it better aligns with customer intentions for Pegged Orders to post at a Pegging Price. That is, the Exchange believes that participants prefer for Pegged Orders to be entered at a Pegging Price, rather than its entered limit price, even if that means that the Order must wait for a Pegging Price to become available. As discussed above, the Exchange does not propose this change for Pegged Orders with Routing Attributes.

[26] It is also consistent with the Act to limit the time period for which the Exchange will hold, without canceling, Pegged Orders for which there is no pegging price or permissible pegging price because the Exchange does not believe that customers would want the Exchange to hold their orders indefinitely. Moreover, holding such orders indefinitely would encumber the Exchange's System. The Exchange believes that a one second holding period for such orders is long enough to provide the above-stated efficiencies for participants, but not too long as to encumber them. However, the Exchange believes that it is reasonable to reserve discretion to alter the holding period, from time to time, should it determine that doing so better meets the needs of customers or its System resources.

[27] Additionally, the Exchange believes that it is consistent with the Act to replace the word ''would'' with ''could'' in this provision, because doing so would clarify that collars apply in circumstances in which Pegged Orders might execute, but do not necessarily do so. *See supra,* n.19.

are priced equally but not executing against each other.

The proposed amendments to Trade Now will also streamline and simplify the instructions that participants must enter to address the handling of their orders in various locking or crossing scenarios. Rather than require a participant to manually send a Trade Now instruction whenever an Order entered through OUCH or FLITE becomes locked, the proposed amended Rule will allow for a participant to enable Trade Now functionality on a port-level basis for all Order entry protocols and for all Order Types that support Trade Now, as well as on an order-by-order basis, for the Non-Displayed Order Type, when entered through OUCH and FLITE.[28] Furthermore, it is consistent with the Act to add language to Rule 3301B(l) to state that Trade Now allows a resting Order that becomes locked ''or crossed, as applicable, at its non-displayed price'' by the ''posted price'' of an incoming Displayed Order to execute against a locking or crossing Order(s) automatically. The Exchange proposes to add the phrase ''or crossed, as applicable,'' for completeness. The Exchange also proposes to add the phrases ''at its non-displayed price'' and [sic] for purposes of clarity. They merely communicate that the incoming Displayed Order or Midpoint Peg Post-Only Order first posts to the Exchange Book, thereby locking or crossing the resting Order at its non-displayed price.

Finally, the Exchange believes that it is consistent with the Act to make conforming changes to the Midpoint Peg Post-Only Order Type, at Rule 3301A, which already includes Trade Now, to accommodate the adoption of Midpoint Trade Now 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. As a general principle, the proposed changes are reflective of the significant competition among exchanges and non-exchange venues for order flow. In this regard, proposed changes that facilitate enhancements to the Exchange's System and order entry protocols as well as those that amend and clarify the Exchange's Rules regarding its Order Attributes, are pro-competitive because they bolster the efficiency, integrity, and overall attractiveness of the Exchange in an absolute sense and relative to its peers.

Moreover, none of the proposed changes will unduly burden intra-market competition among various Exchange participants. Participants will experience no competitive impact from its proposals to hold (up to one second), rather than reject (or accept at their limit price), Pegging Orders (other than those with Routing Attributes) in circumstances in which no permissible pegging price is available, as these proposals will merely eliminate unwarranted inefficiencies that ensue from the System requiring participants to repeatedly re-enter Pegged Orders until a price becomes available, or the System posting Pegged Orders at their limit prices, if there is no pegging price. Moreover, the proposal to amend Rule 3301B(d) to state expressly that Midpoint Pegging Orders are subject to price collars, like Orders with Primary and Market Pegging, will have no competitive impact as the proposal is consistent with existing Exchange practice and with customer expectations.

The Exchange's proposals to amend its rules governing Trade Now will have no adverse competitive impact on participants. The proposed addition of Midpoint Trade Now functionality will expand the Exchange's capabilities relative to competitors, thereby rendering it a more attractive trading venue. Moreover, this new functionality is optional for participants to employ. Meanwhile, the other proposed changes to Rule 3301B(l) will render the Trade Now Order Attribute more efficient and easier for participants to utilize. The proposed conforming changes to the Midpoint Peg Post-Only Order Type, at Rule 3301A, will merely accommodate the adoption of Midpoint Trade Now 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) of the Act[29] and Rule 19b–4(f)(6) thereunder.[30]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2021–40 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–Phlx–2021–40. 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

[28] As noted above, for Orders entered through RASH or FIX, Trade Now will be available on an order-by-order basis for all Order Types that support Trade Now.

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 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.

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2021–40, and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15186 Filed 7–16–21; 8:45 am]

BILLING CODE 8011–01–P

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92393; File No. SR–Phlx–2021–38]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 2, Section 5, Electronic Market Maker Obligations and Quoting Requirements

July 13, 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 June 30, 2021, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 2, Section 5, Electronic Market Maker Obligations and Quoting Requirements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Phlx Rules at Options 2, Section 5, Electronic Market Maker Obligations and Quoting Requirements. Currently, the Exchange requires Market Makers [3] and Lead Maker Makers [4] to enter bids and offers for the options to which they are registered, except in an assigned options series listed intra-day on the Exchange.[5] Quotations must meet the legal quote width requirements specified in Options 2, Section 4(c).[6] On a daily basis, an electronic Market Maker must make markets consistent with the applicable quoting requirements. Market Makers (SQTs and RSQTs) associated with the same member organization [7] are collectively required to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as Phlx may announce in advance, for which that member organization's assigned options series are open for trading.[8] Notwithstanding the foregoing, a member organization is not required to make two-sided markets pursuant to Options 2, Section 5(c)(2) in any Quarterly Option Series, any adjusted option series,[9] and any option series with an expiration of nine months or greater.[10] Lead Market Makers (including Remote Lead Market Makers), associated with the same member organization, are collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as Phlx may announce in advance, for which that member organization's assigned options series are open for trading. Lead Market Makers are required to make two-sided markets pursuant to Options 2, Section 5 in any Quarterly Option Series, any Adjusted Option Series, and any option series with an expiration of nine months or greater.[11] Finally, a Directed SQT or

[3] A ''Market Maker'' means a Streaming Quote Trader or a Remote Streaming Quote Trader who enters quotations for his own account electronically into the System. *See* Options 1, Section 1(b)(28). A ''Streaming Quote Trader'' or ''SQT'' means a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the trading floor of the Exchange. An SQT may only submit quotes in classes of options in which the SQT is assigned. *See* Options 1, Section 1(b)(54). A ''Remote Streaming Quote Trader'' or ''RSQT'' means a Market Maker that is a member affiliated with an Remote Streaming Quote Trader Organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Lead Market Maker upon Exchange approval. An RSQT is also known as a Remote Market Maker (''RMM'') pursuant to Options 2, Section 11. A Remote Streaming Quote Organization (''RSQTO'') or Remote Market Maker Organization (''RMO'') are Exchange member organizations that have qualified pursuant to Options 2, Section 1. *See* Options 1, Section 1(b)(49).

[4] A ''Lead Market Maker'' means a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). A Lead Market Maker includes a Remote Lead Market Maker which is defined as a Lead Market Maker in one or more classes that does not have a physical presence on an Exchange's trading floor and is approved by the Exchange pursuant to Options 2, Section 11. *See* Options 1, Section 1(b)(27).

[5] *See* Options 2, Section 5(c).

[6] Options 2, Section 4(c) describes the required bid/ask differentials.

[7] The term ''member organization'' means a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a member organization by virtue of (i) admission to membership given to it by the Membership Department pursuant to the provisions of General 3, Sections 5 and 10 or the By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 6–4 of the By-Laws. References herein to officer or partner, when used in the context of a member organization, shall include any person holding a similar position in any organization other than a corporation or partnership that has the status of a member organization. *See* General 1, Section 1(17).

[8] Options 2, Section 5(c)(2)(A).

[9] An adjusted option series is defined as an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares (''Adjusted Options Series''). *See* Options 2, Section 5(c)(2)(A)(i).

[10] Options 2, Section 5(c)(2)(A).

[11] Options 2, Section 5(c)(2)(B).

RSQT is subject to the requirements within Options 2, Section 5(c)(2)(C).[12]

A member organization is required to meet each market making obligation separately.[13] Currently, Options 2, Section 5(c) states, ''An SQT and RSQT [14] who is also the Lead Market Maker is held to the Lead Market Maker obligations in options series in which the Lead Market Maker is assigned and will be held to SQT and RSQT obligations in all other options series where assigned. An SQT or RSQT who receives a Directed Order shall be held to the standard of a Directed SQT or Directed RSQT, as appropriate.''

Today, the Exchange calculates whether a member organization that is assigned in an options series as both a Lead Market Maker and a Market Maker has met its quoting obligations as Lead Market Maker and Market Maker, respectively, by aggregating all quotes submitted through the Specialized Quote Feed [15] interface from the member organization, regardless of whether the quote was submitted by the member organization in its capacity as Lead Market Maker or Market Maker.

The Exchange proposes to amend its calculation to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges [16] and options series [17] assigned to a Lead Market Maker when calculating whether a member organization acting as a Lead Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as Phlx may announce for which that member organization's assigned options series are open for trading. Similarly, the Exchange proposes to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and option series assigned to a Market Maker when calculating whether a member organization acting as a Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as Phlx may announce for which that member organization's assigned options series are open for trading. With this proposed change, a member organization that is a Market Maker (SQT) in an options series where the member organization is also assigned as the Lead Market Maker in an options series will be held to both the Lead Market Maker and Market Maker (SQT) obligations, pursuant to Options 2, Section 5(c), separately, in that option series. The Exchange will consider whether a member organization, acting as both Lead Market Maker and Market Maker in an assigned options series, has complied with each requirement by only considering quotes in the respective badges.

The Exchange notes that Floor Market Makers [18] and Floor Lead Market Makers [19] are not required to quote electronically in any designated percentage of series pursuant to Options 8, Section 27(a). Options 8, Section 27(f) provides for certain trading requirements applicable to Floor Market Makers.

By way of example,

Current Quoting obligation methodology:

Lead Market Maker firm ABC is assigned five badges: 123A, 123B, 123C, 123D and 123.

Badge 123 is designated the Lead Market Maker badge and badge 123A–D are designated as Market Maker badges.

Today, all quoting activity from all 5 badges is aggregated in determining if Firm 123 [sic] complied with the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that member organization's assigned options series are open for trading. The higher of the two obligations is required today.

Proposed Quoting obligation methodology:

Lead Market Maker firm ABC is assigned five badges: 123A, 123B, 123C, 123D and 123.

Badge 123 is designated the Lead Market Maker badge and badge 123A–D are designated as Market Maker badges.

As proposed only quoting activity from badge 123 (and excluding badges 123 A–D) would be counted toward the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that member organization's assigned options series are open for trading.

All other badges (123 A–D), excluding badge 123, would be counted toward the requirement to provide two-sided quotations in 60% of the cumulative number of seconds for which that member organization's assigned options series are open for trading.

A member organization may have only one Lead Market Maker badge per option series.

The below example explains how the Exchange aggregates quotes from Lead Market Makers, in their assigned options series, to determine compliance with quoting requirements, which will not be changing pursuant to this proposal. The same calculation applies

[12] Directed SQTs and Directed RSQTs, associated with the same member organization, are collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as Phlx may announce in advance, for which that member organization's assigned options series are open for trading. A member organization shall be considered directed in all assigned options once the member organization receives a Directed Order in any option in which they are assigned and shall be considered a Directed SQT or Directed RSQT until such time as the member organization notifies the Exchange that they are no longer directed. Notwithstanding the foregoing, a member organization is not required to make two-sided markets pursuant to this paragraph (c)(2) above in any Quarterly Option Series, any Adjusted Option Series, and any option series with an expiration of nine months or greater. A Directed Order means any order to buy or sell which has been directed to a particular Lead Market Maker, RSQT, or SQT by an Order Flow Provider. To qualify as a Directed Order, an order must be delivered to the Exchange via the System. *See also* Options 2, Section 10(a)(i).

[13] *See* Options 2, Section 5(c). Today, the Exchange aggregates all quotes submitted through the Specialized Quote Feed interface from the member organization, regardless of whether the quote was submitted by the member organization in its capacity as Lead Market Maker or Market Maker.

[14] The Exchange notes that pursuant to a restriction within Options 2, Section 4(b)(2), only an SQT can simultaneously quote as a Lead Market Maker and an SQT. Options 2, Section 4(b)(2) provides, ''An RSQT may only submit quotations electronically from off the floor of the Exchange. An RSQT may not simultaneously quote both as RSQT and Remote Lead Market Maker in a particular security. If an RSQT is a Remote Lead Market Maker in a particular security, the Remote Lead Market Maker must make a market as a Remote Lead Market Maker and may not make a market as an RSQT in that particular security.'' Because an RSQT cannot also be a Lead Market Maker, the Exchange proposes to delete ''an RSQT'' as part of its amendment to Options 2, Section 5(c).

[15] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Lead Market Makers, SQTs and RSQTs to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) Options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Lead Market Maker, SQT or RSQT. Lead Market Makers, SQTs and RSQTs may only enter interest into SQF in their assigned options series. *See* Options 3, Section 7(a)(i)(B).

[16] The term ''badge'' means an account number, which may contain letters and/or numbers, assigned to Lead Market Makers and Market Makers. A Lead Market Maker or Market Maker account may be associated with multiple badges. *See* Options 1, Section 1(b)(6).

[17] Phlx currently utilizes a badge without an associated options series to designate a Lead Market Maker assigned in an options series and a badge with an associated options series to designate a Market Maker assigned in an option series.

[18] The term ''Floor Market Maker'' is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. *See* Options 8, Section 2(a)(8).

[19] The term ''Floor Lead Market Maker'' is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange's trading floor. *See* Options 8, Section 2(a)(7).

to quotes from Market Makers in their assigned options series.

Under the proposal, and as is the case today, by way of example, assume Lead Market Maker Firm ABC assigned in five symbols across 2 different badges:

Badge 123 is assigned in symbols QQQ and SPY.

Badge 124 is assigned in symbols IBM, GM, and MSFT.

Quotes submitted through the Specialized Quote Feed interface from the Firm ABC's Lead Market Maker badges from all 5 symbols will be counted in determining compliance with Firm ABC's requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading.

If Firm ABC Lead Market Maker badge 123 quotes symbol QQQ at 95% and SPY at 90% and Firm ABC Lead Market Maker badge 124 quotes IBM at 85%, GM at 95%, and MSFT at 90% then Firm ABC will have met requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading because the percentage across the 5 symbols is 91%.

Implementation

The Exchange proposes to implement this rule change on August 2, 2021. The Exchange has issued an Options Regulatory Alert notifying members and member organizations of this change.[20]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[21] in general, and furthers the objectives of Section 6(b)(5) of the Act,[22] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by requiring Lead Market Makers and Market Makers to separately meet quoting requirements as both a Lead Market Maker and Market Maker, respectively, when the member organization is assigned in both roles in an options series.

The Exchange's proposal to separately calculate Market Maker and Lead Market Maker quoting obligations where the member organization is assigned as both Lead Market Maker and Market Maker in an options series is consistent with the Act. Specifically, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and options series assigned to a Lead Market Maker when calculating whether a member organization acting as a Lead Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as Phlx may announce for which that member organization's assigned options series are open for trading. Similarly, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and option series assigned to a Market Maker when calculating whether a member organization acting as a Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as Phlx may announce for which that member organization's assigned options series are open for trading.

The proposed change for calculating the Lead Market Maker requirement separate from the Market Maker requirement, where a member organization is assigned in both roles in an options series, would ensure that the member organization quotes the requisite number of seconds in an assigned options series, when acting as both Lead Market Maker and Market Maker. This would ensure that a member organization adds the requisite amount of liquidity in that assigned options series in exchange for certain benefits offered by the Exchange to the member organization, such as enhanced Lead Market Maker allocation[23] and favorable pricing,[24] in addition to the member organization fulfilling other market making obligations specified in Options 2, Section 5(a).[25]

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. Rather, the proposal would ensure that member organizations that are assigned in an options series as both the Lead Market Maker and Market Maker, respectively, are meeting the same quoting obligations as other member organizations who are assigned solely as either the Lead Market Maker or Market Maker in an option series. Also, this proposal would ensure that a member organization quotes the requisite number of seconds in an assigned options series, when acting as both Lead Market Maker and Market Maker, respectively, thereby adding the requisite amount of liquidity in exchange for certain benefits provided by the Exchange such as enhanced Lead Market Maker allocation[26] and favorable pricing,[27] in addition to fulfilling its other market making obligations specified in Options 2, Section 5(a).[28]

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 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

[20] *See* Options Regulatory Alert 2021–36.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] *See* Options 3, Section 10(a)(1)(B).

[24] *See* Options 7, Pricing Schedule.

[25] In registering as an electronic Market Maker, a member organization commits to various obligations. Transactions of an electronic Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those member organizations should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Electronic Market Makers should not effect purchases or sales except in a reasonable and orderly manner. Ordinarily during trading hours, an electronic Market Maker must: (1) Maintain a two-sided market in those options in which the electronic Market Maker is registered to trade, in a manner that enhances the depth, liquidity and competitiveness of the market. (2) Engage, to a reasonable degree under the existing circumstances, in dealings for its own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of price relationships between option contracts of the same class. (3) Compete with other electronic Market Makers in all options in all capacities in which the electronic Market Maker is registered to trade. (4) Make markets that will be honored for the number of contracts entered into the System in all options in which the electronic Market Maker is registered to trade. (5) Update quotations in response to changed market conditions in all options in which the electronic Market Maker is registered to trade. (6) Maintain active markets in all options in which the electronic Market Maker is registered. (7) Honor all orders attributed to the electronic Market Maker that the System routes to away markets pursuant to Options 5, Section 4.

[26] *See* Options 3, Section 10(a)(1)(B).

[27] *See* Options 7, Pricing Schedule.

[28] *See* note 25 above.

19(b)(3)(A) of the Act [29] and Rule 19b–4(f)(6) thereunder.[30]

A proposed rule change filed under Rule 19b–4(f)(6) [31] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[32] 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 upon filing. Waiving the operative delay will allow the Exchange to amend, without delay, its rules regarding Market Maker quoting obligations to ensure that member organizations assigned in an options series as both the Lead Market Maker and Market Maker would have the same quoting obligations as member organizations who are assigned solely as either Lead Market Maker or Market Maker in an option series. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby designates the proposed rule change to be operative upon filing.[33]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2021–38 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–Phlx–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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2021–38 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15195 Filed 7–16–21; 8:45 am]

BILLING CODE 8011–01–P

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange 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.

[31] 17 CFR 240.19b–4(f)(6).

[32] 17 CFR 240.19b–4(f)(6)(iii).

[33] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92392; File No. SR–CboeBZX–2021–024]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the WisdomTree Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

July 13, 2021.

On March 26, 2021, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the WisdomTree Bitcoin Trust (''Trust'') under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on April 15, 2021.[3]

On May 26, 2021, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposal

As described in more detail in the Notice,[7] the Exchange proposes to list and trade the Shares of the Trust under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

The investment objective of the Trust would be to gain exposure to the price of bitcoin, less expenses and liabilities of the Trust's operation.[8] The Trust

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91521 (April 9, 2021), 86 FR 19917 (April 15, 2021) (''Notice''). Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-cboebzx-2021-024/srcboebzx2021024.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 92032, 86 FR 29611 (June 2, 2021). The Commission designated July 14, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3.

[8] WisdomTree Digital Commodity Services, LLC (''Sponsor'') is the sponsor of the Trust, and

would hold bitcoin and it would calculate the Trust's net asset value (''NAV'') daily based on the value of bitcoin as reflected by the CF Bitcoin U.S. Settlement Price (''Reference Rate''). The Reference Rate was created, and is administered, by CF Benchmarks Ltd., an independent entity. The Reference Rate aggregates the trade flow of several bitcoin platforms. The current platform composition of the Reference Rate is Bitstamp, Coinbase, Gemini, itBit and Kraken. In calculating the Reference Rate, the methodology creates a joint list of the trade prices and sizes from the constituent platforms between 3:00 p.m. E.T. and 4:00 p.m. E.T. The methodology then divides this list into 12 equally-sized time intervals of 5 minutes and it calculates the volume-weighted median trade price for each of those time intervals. The Reference Rate is the arithmetic mean of these 12 volume-weighted median trade prices.[9]

Each Share will represent a fractional undivided beneficial interest in the Trust's net assets. The Trust's assets will consist of bitcoin held by the Bitcoin Custodian on behalf of the Trust. The Trust generally does not intend to hold cash or cash equivalents. However, there may be situations where the Trust will unexpectedly hold cash on a temporary basis.[10]

The administrator will determine the NAV and NAV per Share of the Trust, on each day that the Exchange is open for regular trading, after 4:00 p.m. E.T. (often by 5:30 p.m. E.T. and almost always by 8:00 p.m. E.T.). The NAV of the Trust is the aggregate value of the Trust's assets less total liabilities of the Trust. In determining the Trust's NAV, the administrator values the bitcoin held by the Trust based on the price set by the Reference Rate as of 4:00 p.m. E.T.[11]

The Trust will provide information regarding the Trust's bitcoin holdings, as well as an Intraday Indicative Value (''IIV'') per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.[12]

When the Trust sells or redeems its Shares, it will do so in ''in-kind'' transactions in large blocks of aggregations of Shares. Authorized participants will deliver, or facilitate the delivery of, bitcoin to the Trust's account with the Bitcoin Custodian in exchange for Shares when they purchase Shares, and the Trust, through the Bitcoin Custodian, will deliver bitcoin to such authorized participants when they redeem Shares with the Trust.[13]

II. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2021–024 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[14] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[15] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.''[16]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[17] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data where appropriate to support their views:

1. What are commenters' views on whether the proposed Trust and Shares would be susceptible to manipulation? What are commenters' views generally on whether the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices? What are commenters' views generally with respect to the liquidity and transparency of the bitcoin markets, the bitcoin markets' susceptibility to manipulation, and thus the suitability of bitcoin as an underlying asset for an exchange-traded product?

2. What are commenters' views of the Exchange's assertion that regulatory and financial landscapes relating to bitcoin and other digital assets have changed significantly since 2016?[18] Are the changes that the Exchange identifies sufficient to support the determination that the proposed listing and trading of the Shares are consistent with the Act?

3. The Exchange states that ''approving this proposal . . . [would] allow U.S. investors with access to bitcoin in a regulated and transparent exchange-traded vehicle that would act to limit risk'' associated with exposure through other means.[19] Further, the Exchange asserts that ''the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues.''[20] What are commenters' views regarding such assertions?

4. According to the Exchange, ''[n]early every measurable metric related to [Chicago Mercantile Exchange's] Bitcoin Futures has trended consistently up since launch and/or accelerated upward in the past year.''[21] Based on data provided and the academic research cited by the Exchange, do commenters agree that the Chicago Mercantile Exchange (''CME'') now represents a regulated market of significant size?[22] What are commenters' views on whether there is a reasonable likelihood that a person attempting to manipulate the Shares would also have to trade on CME to manipulate the Shares? What of the Exchange's assertion that the combination of (a) CME bitcoin futures leading price discovery; (b) the overall size of the bitcoin market; and (c) the ability for market participants to buy or sell large amounts of bitcoin without significant market impact helps to

Delaware Trust Company is the trustee. A third-party regulated custodian (''Bitcoin Custodian'') will be responsible for custody of the Trust's bitcoin. The Sponsor is responsible for selecting the Bitcoin Custodian as well as an administrator, a transfer agent, a marketing agent, and an auditor for the Trust. *See id.* at 19925–26.

[9] *See id.* at 19926.

[10] *See id.* at 19925.

[11] *See id.* at 19927.

[12] *See id.* at 19926.

[13] *See id.* at 19925–26.

[14] 15 U.S.C. 78s(b)(2)(B).

[15] *Id.*

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Notice, *supra* note 3.

[18] *See id.* at 19919.

[19] *See id.* at 19920.

[20] *See id.* at 19924.

[21] *See id.* at 19922.

[22] *See id.* at 19924.

prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or CME bitcoin futures markets? [23]

5. What are commenters' views on the Exchange's statement, generally, that bitcoin is resistant to price manipulation and that other means to prevent fraudulent and manipulative acts and practices exist to justify dispensing with the requisite surveillance sharing agreement with a regulated market of significant size related to bitcoin? [24] What of the Exchange's assertion in support of such statement that significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly? [25] What of the assertion that offering only in-kind creations and redemptions provides unique protections against potential attempts to manipulate the Shares and that the price the Sponsor uses to value the Trust's bitcoin ''is not particularly important''? [26]

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[27]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by August 9, 2021. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 23, 2021.

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–2021–024 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–2021–024. 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–2021–024 and should be submitted by August 9, 2021. Rebuttal comments should be submitted by August 23, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

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[23] *See id.* at 19930.

[24] *See id.* at 19924 n.58.

[25] *See id.* at 19925.

[26] *See id.*

[27] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[28] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92394; File No. SR–ISE–2021–15]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 2, Section 5, Market Maker Quotations

July 13, 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 June 30, 2021, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 2, Section 5, Market Maker Quotations.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend ISE Rules at Options 2, Section 5, Market Maker Quotations. Currently, the Exchange requires Competitive Market Makers [3] and Primary Market Makers [4] to enter bids and offers for the options to which they are registered, except in an assigned options series listed intra-day on the Exchange.[5] Quotations must meet the legal quote width requirements specified in Options 2, Section 4(b)(4).[6] On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed. A Competitive Market Maker may initiate quoting in options classes to which it is appointed intra-day. If a Competitive Market Maker initiates quoting in an options class, the Competitive Market Maker, associated with the same Member,[7] is collectively required to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Member's assigned options class is open for trading.[8] Notwithstanding the foregoing, a Competitive Market Maker shall not be required to make two-sided markets pursuant to Options 2, Section 5(e)(1) in any Quarterly Options Series, any adjusted options series, and any option series with an expiration of nine months or greater for options on equities and exchange-traded funds (''ETFs'') or with an expiration of twelve months or greater for index options. Competitive Market Makers may choose to quote such series in addition to regular series in the options class, but such quotations will not be considered when determining whether a Competitive Market Maker has met the obligation.[9] Primary Market Makers, associated with the same Member are collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Member's assigned options class is open for trading. Primary Market Makers are required to make two-sided markets in any Quarterly Options Series, any Adjusted Options Series, and any option series with an expiration of nine months or greater for options on equities and ETFs or with an expiration of twelve months or greater for index options.[10]

A Member is required to meet each market making obligation separately.[11] Currently, Options 2, Section 5(e) states, ''A Competitive Market Maker who is also the Primary Market Maker will be held to the Primary Market Maker obligations in the options series in which the Primary Market Maker is assigned and will be held to Competitive Market Maker obligations in all other options series where assigned. A Competitive Market Maker who receives a Preferenced Order, as described in Options 2, Section 10 and Options 3, Section 10 will be held to the standard of a Preferred CMM in the options series of any options class in which it receives the Preferenced Order.'' [12]

Today, the Exchange calculates whether a Member that is assigned in an options series as both a Primary Market Maker and a Competitive Market Maker has met its quoting obligations as Primary Market Maker and Competitive Market Maker, respectively, by aggregating all quotes submitted through the Specialized Quote Feed [13] interface from the Member, whether the quote was submitted by the Member in its capacity as Primary Market Maker or Competitive Market Maker.

The Exchange proposes to amend its calculation to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges [14] and options series [15] assigned to a Primary Market Maker when calculating whether a Member acting as a Primary Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as ISE may announce for which that Member's assigned options class is open for trading. Similarly, the Exchange proposes to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and options series assigned to a Competitive Market Maker when calculating whether a Member acting as a Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as ISE may announce for which that Member's assigned options class is open for trading, provided the Competitive Market Maker initiated quoting in an options class for which that Member's assigned options class is open for trading. With this proposed change, a Member that is a Competitive Market Maker in an options series where the Member is also assigned as the Primary Market Maker in an options series will be held to both the Primary Market Maker and Competitive Market Maker obligations, pursuant to Options 2, Section 5(e), separately, in that options series. The Exchange will consider whether a Member, acting as both Primary Market Maker and Competitive Market Maker in an assigned options series, has complied with each requirement by only considering quotes in the respective badges.

By way of example,

Current Quoting obligation methodology:

Primary Market Maker firm 123 is assigned five badges: 123A, 123B, 123C, 123D and 123E.

Badge 123A is designated the Primary Market Maker badge and badge 123B–E are designated as Competitive Market Maker badges.

[3] The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12).

[4] The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(36).

[5] Options 2, Section 5(e).

[6] Options 2, Section 4(b)(4) describes bid/ask differentials.

[7] The term ''Member'' means an organization that has been approved to exercise trading rights associated with Exchange Rights. *See* General 1, Section 1(a)(13).

[8] Options 2, Section 5(e)(1).

[9] Options 2, Section 5(e)(1).

[10] Options 2, Section 5(e)(2).

[11] *See* Options 2, Section 5(e). Today, the Exchange aggregates all quotes submitted through the Specialized Quote Feed interface from the Member, regardless of whether the quote was submitted by the Member in its capacity as Primary Market Maker or Competitive Market Maker.

[12] Preferred Competitive Market Makers are subject to enhanced quoting requirements as provided in Options 2, Section 5(e)(3). *See* Options 3, Section 10 at Supplementary Material .01.

[13] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) Options symbol directory messages (*e.g.,* underlying and complex instruments); (2) System event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. *See* Options 3, Section 7 at Supplementary Material .03(c).

[14] A ''badge'' shall mean an account number, which may contain letters and/or numbers, assigned to Market Makers. A Market Maker account may be associated with multiple badges. *See* Options 1, Section 1(a)(5).

[15] ISE currently utilizes a badge with an associated options series to designate a Primary Market Maker assigned in an options series and a badge with an associated options series to designate a Competitive Market Maker assigned in an option series.

Today, all quoting activity from all 5 badges is aggregated in determining if Firm 123 complied with the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that Member's assigned options series are open for trading. The higher of the two obligations is required today.

Proposed Quoting obligation methodology:

Primary Market Maker firm 123 is assigned five badges: 123A, 123B, 123C, 123D and 123E.

Badge 123A is designated the Primary Market Maker badge and badge 123B–E are designated as Competitive Market Maker badges.

As proposed only quoting activity from badge 123A (and excluding badges 123 B–E) would be counted toward the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that Member's assigned options series are open for trading.

All other badges (123 B–E), excluding badge 123A, would be counted toward the requirement to provide two-sided quotations in 60% of the cumulative number of seconds for which that Member's assigned options series are open for trading.

A Member may have only one Primary Market Maker badge per option series.

The below example explains how the Exchange aggregates quotes from Primary Market Makers, in their assigned options series, to determine compliance with quoting requirements, which will not be changing pursuant to this proposal. The same calculation applies to quotes from Competitive Market Makers in their assigned options series.

Under the proposal, and as is the case today, by way of example, assume Primary Market Maker Firm ABC assigned in five symbols across 2 different badges:

Badge 123A and B is assigned in symbols QQQ and SPY, respectively.

Badge 124A, B and C is assigned in symbols IBM, GM, and MSFT, respectively.

Quotes submitted through the Specialized Quote Feed interface from the Firm ABC's Primary Market Maker badges from all 5 symbols will be counted in determining compliance with Firm ABC's requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading.

If Firm ABC Primary Market Maker badge 123A quotes symbol QQQ at 95% and badge 123B quotes symbol SPY at 90% and Firm ABC Primary Market Maker badge 124A quotes IBM at 85%, badge 124B quotes GM at 95%, and badge 124C quotes MSFT at 90% then Firm ABC will have met requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading because the percentage across the 5 symbols is 91%.

Implementation

The Exchange proposes to implement this rule change on August 2, 2021. The Exchange has issued an Options Regulatory Alert notifying Members of this change.[16]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by requiring Primary Market Makers and Competitive Market Makers to separately meet quoting requirements as both a Primary Market Maker and Competitive Market Maker, respectively, when the Member is assigned in both roles in an options series.

The Exchange's proposal to separately calculate Competitive Market Maker and Primary Market Maker quoting obligations where the Member is assigned as both Primary Market Maker and Competitive Market Maker in an options series is consistent with the Act. Specifically, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and options series assigned to a Primary Market Maker when calculating whether a Member acting as a Primary Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as ISE may announce for which that Member's assigned options series are open for trading. Similarly, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and option series assigned to a Competitive Market Maker when calculating whether a Member acting as a Competitive Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as ISE may announce for which that Member's assigned options series are open for trading.

The proposed change for calculating the Primary Market Maker requirement separate from the Competitive Market Maker requirement, where a Member is assigned in both roles in an options series, would ensure that the Member quotes the requisite number of seconds in an assigned options series, when acting as both Primary Market Maker and Competitive Market Maker. This would ensure that a Member adds the requisite amount of liquidity in that assigned options series in exchange for certain benefits offered by the Exchange to the Member, such as enhanced Primary Market Maker allocation [19] and favorable pricing,[20] in addition to the Member fulfilling other market making obligations specified in Options 2, Section 4(a) and (b).[21]

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. Rather, the proposal would ensure that Members that are assigned in an options series as both the Primary Market Maker and Competitive Market Maker, respectively, are meeting the same quoting obligations as other Members who are assigned solely as either the Primary Market Maker or Competitive Market Maker in an option series. Also, this proposal would ensure that a Member

[16] *See* Options Regulatory Alert 2021–36.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Options 3, Section 10(c)(1)(B).

[20] *See* Options 7, Pricing Schedule.

[21] *General.* Transactions of a Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such a course of dealings. *Appointment.* With respect to each options class to which a Market Maker is appointed under Options 2, Section 3, the Market Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular options contract, or a temporary distortion of the price relationships between options contracts of the same class. Without limiting the foregoing, a Market Maker is expected to perform the following activities in the course of maintaining a fair and orderly market: (1) To compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed. (2) To make markets that, absent changed market conditions, will be honored for the number of contracts entered into the Exchange's System in all series of options classes to which the Market Maker is appointed. (3) To update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.

quotes the requisite number of seconds in an assigned options series, when acting as both Primary Market Maker and Competitive Market Maker, respectively, thereby adding the requisite amount of liquidity in exchange for certain benefits provided by the Exchange such as enhanced Primary Market Maker allocation [22] and favorable pricing,[23] in addition to fulfilling its other market making obligations specified in Options 2, Section 4(a) and (b).[24]

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 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 [25] and Rule 19b–4(f)(6) thereunder.[26]

A proposed rule change filed under Rule 19b–4(f)(6) [27] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[28] 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 upon filing. Waiving the operative delay will allow the Exchange to amend, without delay, its rules regarding Market Maker quoting obligations to ensure that Members assigned in an options series as both the Primary Market Maker and Competitive Market Maker would have the same quoting obligations as Members who are assigned solely as either Primary Market Maker or Competitive Market Maker in an option series. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby designates the proposed rule change to be operative upon filing.[29]

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–ISE–2021–15 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2021–15. 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–ISE–2021–15 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15196 Filed 7–16–21; 8:45 am]

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[22] *See* note 19 above.

[23] *See* note 20 above.

[24] *See* note 21 above.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange 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.

[27] 17 CFR 240.19b–4(f)(6).

[28] 17 CFR 240.19b–4(f)(6)(iii).

[29] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92396; File No. SR–MRX–2021–08]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 2, Section 5, Market Maker Quotations

July 13, 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 June 30, 2021, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 2, Section 5, Market Maker Quotations.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend MRX Rules at Options 2, Section 5, Market Maker Quotations. Currently, the Exchange requires Competitive Market Makers [3] and Primary Market Makers [4] to enter bids and offers for the options to which they are registered, except in an assigned options series listed intra-day on the Exchange.[5] Quotations must meet the legal quote width requirements specified in Options 2, Section 4(b)(4).[6] On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed. A Competitive Market Maker may initiate quoting in options classes to which it is appointed intra-day. If a Competitive Market Maker initiates quoting in an options class, the Competitive Market Maker, associated with the same Member,[7] is collectively required to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Member's assigned options class is open for trading.[8] Notwithstanding the foregoing, a Competitive Market Maker shall not be required to make two-sided markets pursuant to Options 2, Section 5(e)(1) in any Quarterly Options Series, any adjusted options series, and any option series with an expiration of nine months or greater for options on equities and exchange-traded funds (''ETFs'') or with an expiration of twelve months or greater for index options. Competitive Market Makers may choose to quote such series in addition to regular series in the options class, but such quotations will not be considered when determining whether a Competitive Market Maker has met the obligation.[9] Primary Market Makers, associated with the same Member are collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Member's assigned options class is open for trading. Primary Market Makers are required to make two-sided markets in any Quarterly Options Series, any Adjusted Options Series, and any option series with an expiration of nine months or greater for options on equities and ETFs or with an expiration of twelve months or greater for index options.[10]

A Member is required to meet each market making obligation separately.[11] Currently, Options 2, Section 5(e) states, ''A Competitive Market Maker who is also the Primary Market Maker will be held to the Primary Market Maker obligations in the options series in which the Primary Market Maker is assigned and will be held to Competitive Market Maker obligations in all other options series where assigned. A Competitive Market Maker who receives a Preferenced Order, as described in Options 2, Section 10 and Options 3, Section 10 will be held to the standard of a Preferred CMM in the options series of any options class in which it receives the Preferenced Order.'' [12]

Today, the Exchange calculates whether a Member that is assigned in an options series as both a Primary Market Maker and a Competitive Market Maker has met its quoting obligations as Primary Market Maker and Competitive Market Maker, respectively, by aggregating all quotes submitted through the Specialized Quote Feed [13] interface from the Member, whether the quote was submitted by the Member in its capacity as Primary Market Maker or Competitive Market Maker.

The Exchange proposes to amend its calculation to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges [14] and options series [15] assigned to a Primary Market Maker when calculating whether a Member acting as a Primary Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as MRX may announce for which that Member's assigned options class is open for trading. Similarly, the Exchange proposes to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and options series assigned to a Competitive Market Maker when calculating whether a Member acting as a Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as MRX may announce for which that Member's assigned options class is open for trading, provided the Competitive Market Maker initiated quoting in an options class for which that Member's assigned options class is open for trading. With this proposed change, a Member that is a Competitive Market Maker in an options series where the Member is also assigned as the Primary Market Maker in an options series will be held to both the Primary Market Maker and Competitive Market Maker obligations, pursuant to Options

[3] The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12).

[4] The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(35).

[5] Options 2, Section 5(e).

[6] Options 2, Section 4(b)(4) describes bid/ask differentials.

[7] The term ''Member'' means an organization that has been approved to exercise trading rights associated with Exchange Rights. *See* General 1, Section 1(a)(14).

[8] Options 2, Section 5(e)(1).

[9] Options 2, Section 5(e)(1).

[10] Options 2, Section 5(e)(2).

[11] *See* Options 2, Section 5(e). Today, the Exchange aggregates all quotes submitted through the Specialized Quote Feed interface from the Member, regardless of whether the quote was submitted by the Member in its capacity as Primary Market Maker or Competitive Market Maker.

[12] Preferred Competitive Market Makers are subject to enhanced quoting requirements as provided in Options 2, Section 5(e)(3). *See* Options 3, Section 10 at Supplementary Material .01.

[13] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) Options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. *See* Options 3, Section 7 at Supplementary Material .03(c).

[14] A ''badge'' shall mean an account number, which may contain letters and/or numbers, assigned to Market Makers. A Market Maker account may be associated with multiple badges. *See* Options 1, Section 1(a)(5).

[15] MRX currently utilizes a badge with an associated options series to designate a Primary Market Maker assigned in an options series and a badge with an associated options series to designate a Competitive Market Maker assigned in an option series.

2, Section 5(e), separately, in that options series. The Exchange will consider whether a Member, acting as both Primary Market Maker and Competitive Market Maker in an assigned options series, has complied with each requirement by only considering quotes in the respective badges.

By way of example,

Current Quoting obligation methodology:

Primary Market Maker firm 123 is assigned five badges: 123A, 123B, 123C, 123D and 123E.

Badge 123A is designated the Primary Market Maker badge and badge 123B–E are designated as Competitive Market Maker badges.

Today, all quoting activity from all 5 badges is aggregated in determining if Firm 123 complied with the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that Member's assigned options series are open for trading. The higher of the two obligations is required today.

Proposed Quoting obligation methodology:

Primary Market Maker firm 123 is assigned five badges: 123A, 123B, 123C, 123D and 123E.

Badge 123A is designated the Primary Market Maker badge and badge 123B–E are designated as Competitive Market Maker badges.

As proposed only quoting activity from badge 123A (and excluding badges 123 B–E) would be counted toward the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that Member's assigned options series are open for trading.

All other badges (123 B–E), excluding badge 123A, would be counted toward the requirement to provide two-sided quotations in 60% of the cumulative number of seconds for which that Member's assigned options series are open for trading.

A Member may have only one Primary Market Maker badge per option series.

The below example explains how the Exchange aggregates quotes from Primary Market Makers, in their assigned options series, to determine compliance with quoting requirements, which will not be changing pursuant to this proposal. The same calculation applies to quotes from Competitive Market Makers in their assigned options series.

Under the proposal, and as is the case today, by way of example, assume Primary Market Maker Firm ABC assigned in five symbols across 2 different badges:

Badge 123A and B is assigned in symbols QQQ and SPY, respectively.

Badge 124A, B and C is assigned in symbols IBM, GM, and MSFT, respectively.

Quotes submitted through the Specialized Quote Feed interface from the Firm ABC's Primary Market Maker badges from all 5 symbols will be counted in determining compliance with Firm ABC's requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading.

If Firm ABC Primary Market Maker badge 123A quotes symbol QQQ at 95% and badge 123B quotes symbol SPY at 90% and Firm ABC Primary Market Maker badge 124A quotes IBM at 85%, badge 124B quotes GM at 95%, and badge 124C quotes MSFT at 90% then Firm ABC will have met requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading because the percentage across the 5 symbols is 91%.

Implementation

The Exchange proposes to implement this rule change on August 2, 2021. The Exchange has issued an Options Regulatory Alert notifying Members of this change.[16]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by requiring Primary Market Makers and Competitive Market Makers to separately meet quoting requirements as both a Primary Market Maker and Competitive Market Maker, respectively, when the Member is assigned in both roles in an options series.

The Exchange's proposal to separately calculate Competitive Market Maker and Primary Market Maker quoting obligations where the Member is assigned as both Primary Market Maker and Competitive Market Maker in an options series is consistent with the Act. Specifically, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and options series assigned to a Primary Market Maker when calculating whether a Member acting as a Primary Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as MRX may announce for which that Member's assigned options series are open for trading. Similarly, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and option series assigned to a Competitive Market Maker when calculating whether a Member acting as a Competitive Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as MRX may announce for which that Member's assigned options series are open for trading.

The proposed change for calculating the Primary Market Maker requirement separate from the Competitive Market Maker requirement, where a Member is assigned in both roles in an options series, would ensure that the Member quotes the requisite number of seconds in an assigned options series, when acting as both Primary Market Maker and Competitive Market Maker. This would ensure that a Member adds the requisite amount of liquidity in that assigned options series in exchange for certain benefits offered by the Exchange to the Member, such as enhanced Primary Market Maker allocation [19] and favorable pricing,[20] in addition to the Member fulfilling other market making obligations specified in Options 2, Section 4(a) and (b).[21]

[16] *See* Options Regulatory Alert 2021–36.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Options 3, Section 10(c)(1)(B).

[20] *See* Options 7, Pricing Schedule.

[21] *General.* Transactions of a Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such a course of dealings. *Appointment.* With respect to each options class to which a Market Maker is appointed under Options 2, Section 3, the Market Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular options contract, or a temporary distortion of the price relationships between options contracts of the same class. Without limiting the foregoing, a Market Maker is expected to perform the following activities in the course of maintaining a fair and orderly market: (1) To compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed. (2) To make markets that, absent changed market conditions, will be honored for the number of contracts entered into the Exchange's

Continued

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. Rather, the proposal would ensure that Members that are assigned in an options series as both the Primary Market Maker and Competitive Market Maker, respectively, are meeting the same quoting obligations as other Members who are assigned solely as either the Primary Market Maker or Competitive Market Maker in an option series. Also, this proposal would ensure that a Member quotes the requisite number of seconds in an assigned options series, when acting as both Primary Market Maker and Competitive Market Maker, respectively, thereby adding the requisite amount of liquidity in exchange for certain benefits provided by the Exchange such as enhanced Primary Market Maker allocation [22] and favorable pricing,[23] in addition to fulfilling its other market making obligations specified in Options 2, Section 4(a) and (b).[24]

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 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 [25] and Rule 19b–4(f)(6) thereunder.[26]

A proposed rule change filed under Rule 19b–4(f)(6) [27] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[28] 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 upon filing. Waiving the operative delay will allow the Exchange to amend, without delay, its rules regarding Market Maker quoting obligations to ensure that Members assigned in an options series as both the Primary Market Maker and Competitive Market Maker would have the same quoting obligations as Members who are assigned solely as either Primary Market Maker or Competitive Market Maker in an option series. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby designates the proposed rule change to be operative upon filing.[29]

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–MRX–2021–08 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–MRX–2021–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the 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–MRX–2021–08 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15198 Filed 7–16–21; 8:45 am]

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System in all series of options classes to which the Market Maker is appointed. (3) To update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.

[22] *See* note 19 above.

[23] *See* note 20 above.

[24] *See* note 21 above.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange 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.

[27] 17 CFR 240.19b–4(f)(6).

[28] 17 CFR 240.19b–4(f)(6)(iii).

[29] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92388; File No. SR–CboeBZX–2021–039]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the Wise Origin Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

July 13, 2021.

On May 10, 2021, Cboe BZX Exchange, Inc. (''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Wise Origin Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on June 1, 2021.[3] The Commission has received comments on the proposed rule change.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 16, 2021. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates August 30, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2021–039).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15192 Filed 7–16–21; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91994 (May 25, 2021), 86 FR 29321 (June 1, 2021).

[4] Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-cboebzx-2021-039/srcboebzx2021039.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92381; File No. SR–NSCC–2021–008]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Clearing Agency Model Risk Management Framework

July 13, 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 July 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)(1) 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 clarifies the scope of the Clearing Agency Model Risk Management Framework (''Framework'') of NSCC and its affiliates The Depository Trust Company (''DTC'') and Fixed Income Clearing Corporation (''FICC,'' and together with NSCC, the ''CCPs,'' and the CCPs together with DTC, the ''Clearing Agencies'').[5] The Framework has been adopted by the Clearing Agencies to support their compliance with Rule 17Ad–22(e) (the ''Covered Clearing Agency Standards'').[6] The proposed rule change [7] would amend the Framework to clarify that the Framework applies solely to models [8] utilized by the Clearing Agencies that are subject to the model risk management requirements set forth in Rule 17Ad–22(e)(4), (e)(6), and (e)(7) under the Act.[9] The proposed rule change also makes other technical and clarifying changes to the text, as more fully described below.

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

The proposed rule change clarifies the scope of the Framework to make clear that it applies solely to models that are subject to Rule 17Ad–22(e)(4), (e)(6), and (e)(7).[10] The proposed rule change also makes other technical and clarifying changes to the text.

[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)(1).

[5] The Framework sets forth the model risk management practices that the Clearing Agencies follow to identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework is filed as a rule of the Clearing Agencies. *See* Securities Exchange Act Release No. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File Nos. SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008) (''2017 Notice'') and Securities Exchange Act Release No. 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File Nos. SR–DTC–2020–008; SR–FICC–2020–004; SR–NSCC–2020–008) (''2020 Notice'') (collectively, the MRMF Filings'').

[6] 17 CFR 240.17Ad–22(e). Each of DTC, NSCC and FICC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5) and must comply with Rule 17Ad–22(e).

[7] Amending the Framework does not require any changes to the Rules, By-Laws and Organization Certificate of DTC, the Rulebook of the Government Securities Division of FICC, the Clearing Rules of the Mortgage-Backed Securities Division of FICC, or the Rules & Procedures of NSCC, because the Framework is a standalone document. *See* MRMF Filings, *supra* note 5.

[8] *See infra* note 16 for the definition of ''model'' as adopted by the Clearing Agencies pursuant to the Framework.

[9] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[10] *Id.*

Background

The Framework is maintained by the Clearing Agencies to support their compliance with the requirements of the Covered Clearing Agency Standards relating to model risk management. The Covered Clearing Agency Standards require that the Clearing Agencies take a variety of steps to manage the models that they employ in identifying, measuring, monitoring, and managing their respective credit exposures and liquidity risks, including that the Clearing Agencies conduct daily backtesting of model performance, periodic sensitivity analyses of models, and annual validation of models.[11]

The Framework outlines the applicable regulatory requirements described above, describes the risks that the Clearing Agencies' model risk management program are designed to mitigate, and sets forth specific model risk management practices and requirements adopted by the Clearing Agencies in order to ensure compliance with the Covered Clearing Agency Standards. These practices and requirements include, among other things, the maintenance of a model inventory, a process for rating model materiality and complexity, processes for performing model validations and resolving findings identified during model validation, and processes for model performance monitoring, including backtesting and sensitivity analyses. The Framework also describes applicable internal ownership and governance requirements.[12]

The Depository Trust & Clearing Corporation (''DTCC''), the parent company of the Clearing Agencies, has established a robust model risk management program, which applies to models employed across multiple business lines and corporate functions.[13] DTCC may implement changes in its model risk management program from time to time, some of which changes may impact only lower-risk, lower-materiality models that are not subject to the specific model risk management requirements of the Covered Clearing Agency Standards. The Clearing Agencies previously adopted changes to the Framework in connection with proposed enhancements to their model risk management program, which rule changes also deleted the defined term ''Clearing Agency Model'' on grounds that the Framework related solely to models of the Clearing Agencies, and it was unnecessary to use the modifier ''Clearing Agency''.[14] In view of continued expansion of DTCC's model risk management program, however, the Clearing Agencies desire to avoid any doubt as to the applicability of the Framework to specific models, and therefore propose to adopt further clarifying changes to the text of the Framework.

Proposed Rule Change

Section 1 (Executive Summary) of the Framework recites the regulatory requirements applicable to model risk management for credit risk models, liquidity risk models, and margin models that are set forth in the Covered Clearing Agency Standards. The proposed rule change clarifies the Framework's scope by (i) amending Section 1 of the Framework to add a sentence that states that the Framework supports the Clearing Agencies in complying with their rule filing requirements under Rule 19b–4 [15] because the Framework itself is a rule that governs the Clearing Agencies' management of their credit risk, margin, and liquidity risk management models and (ii) adding a footnote that states that only those models that satisfy the definition of ''model'' set forth in Section 3.1 of the Framework, and that support the Clearing Agencies' compliance with the Standards, are models subject to the Framework and, in contrast, models of the Clearing Agencies that would satisfy the definition of ''model'' as set forth under Section 3.1 of the Framework, but do not support the Clearing Agencies' compliance with the Standards, are not subject to the Framework.[16] In this regard, the proposed rule change would also amend certain references to models in subsequent sections to refer to models ''subject to this Framework''. Specifically, the text ''subject to this Framework'' would modify references to models in (i) Section 3.1 with respect to (a) models to be added to the Clearing Agencies' model inventory and (b) models subject to validation as set forth in Section 2,[17] (ii) Section 3.2 (Model Materiality and Complexity) with respect to the assignment of complexity ratings to models,[18] (iii) Section 3.3 (Full Model Validation) with respect to a requirement relating to the validation of new models,[19] (iv) Section 3.4 (Periodic Model Validation) with respect to periodic validation of models,[20] (v) Section 3.5 (Model Change Management) with respect to models that require changes in either structure or technique, (vi) Section 3.7 (Resolution of Model Validation Findings) with respect to internal tracking and reporting relating to model validations [21] and (vii) Section 4.2 (Escalation) [22] with respect to internal escalation of model performance monitoring oversight concerns.[23]

[11] *Id.*

[12] *See* MRMF Filings, *supra* note 5, for additional information on the contents of the Framework.

[13] DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency.

[14] *See* 2020 Notice, *supra* note 5.

[15] 17 CFR 240.19b–4.

[16] Pursuant to Section 3.1 of the Framework, the Clearing Agencies have adopted the following definition of ''model'': ''[M]odel'' refers to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates. A ''model'' consists of three components: An information input component, which delivers assumptions and data to the model; a processing component, which transforms inputs into estimates; and a reporting component, which translates the estimates into useful business information. The definition of 'model' also covers quantitative approaches whose inputs are partially or wholly qualitative or based on expert judgment, provided that the output is quantitative in nature. *See* 2017 Notice, *supra* note 5. *See also* Supervisory Guidance on Model Risk Management, SR Letter 11–7 Attachment, dated April 4, 2011, issued by the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, *available at https://www.federalreserve.gov/supervisionreg/srletters/sr1107a1.pdf,* page 3.

[17] Also in this regard, the applicable sentence that this reference would be added to would also replace the words ''All models (including, without limitation, all credit risk models margin models, and liquidity risk models)'' with ''All models.'' The described reference to ''subject to this Framework'' would be added after the newly added text ''All models.''

[18] In this instance, the new text ''subject to this Framework'' would be preceded with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . model that is subject to this Framework . . . .''

[19] Similar to the prior reference from Section 3.1, the added reference to ''subject to this Framework'' in Section 3.3 would be preceded with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . new model that is subject to this Framework . . . .''

[20] Similar to the prior reference from Section 3.3, the added reference to ''subject to this Framework in Section 3.4 would be followed with the added text ''that is'' so that the reference to ''model'' in this context reads ''. . . model subject to this Framework that is . . . .''

[21] The reference to model in this instance also refers to a new model or a model change and the applicable text reads ''. . . new model or model change . . . .'' To improve the flow of the text, the words ''or model change'' would be deleted and ''or changed'' would be added after ''new.'' Also, the addition of ''subject to this Framework'' would be preceded by newly added words ''that is'' so that the reference to ''model'' in this case refers to ''. . . new or changed model that is subject to this Framework . . . .''

[22] In this instance the existing text does not use the word ''model'' even though it is referencing the escalation of issues relating to models. The applicable sentence currently begins with ''[a]ll model performance monitoring oversight concerns . . . .''

[23] *See* MRMF Filings, *supra* note 5, for additional information on the contents of these sections, and the Framework in general.

The proposed rule change makes several other technical and clarifying changes to the text of the Framework. It revises a sentence in Section 1 that currently states ''FICC/GSD, FICC/MBSD, and NSCC are each a ''Central Counterparty'' or ''CCP'' and are collectively referred to as the ''Central Counterparties'' or ''CCPs''. The proposed revisions to this sentence (i) changes the first reference to ''Central Counterparty'' from a capitalized term to an uncapitalized term, (ii) deletes the second reference to this term in this sentence (shown as ''Central Counterparties'') such that ''CCP'' will be the sole defined term used to described central counterparties, and (iii) adds ''below'' after the words ''referred to.''

It defines a term for ''Clearing Agency Model Documentation'' to reduce the repetition of listing numerous documents that are subordinate to the Framework with respect to model risk management. The proposed rule change updates the titles of certain Clearing Agency Model Documentation.[24] It also consolidates a reference to supplementary model risk documentation applicable to the Clearing Agencies that may be created from time to time into the newly defined term ''Clearing Agency Model Documentation''. The proposed rule change adds this defined term to three sentences in Section 1 to replace references in the section to specifically named model documentation and supplemental model documentation. It also consolidates two references that respectively provide that the documentation that is specifically named in the Framework, and the supplemental documentation that may be created, are subordinate to the Framework and are reasonably and fairly implied by the Framework, into one such reference with respect to Clearing Agency Model Documentation.

The proposed rule change updates prior references to the Model Validation & Control unit (defined in the Framework as ''MVC''), the name of which has recently changed, to instead refer generically to the unit within the Clearing Agencies' Group Chief Risk office that performs second-line model risk management functions. This generic reference to this unit would be defined as ''MRM'' in the Framework and, therefore, all references to ''MVC'' would be replaced with ''MRM'' beginning from the first use of ''MVC'' in Section 3, and with respect to all subsequent references to ''MVC,'' through and including the last reference to ''MVC'' in the second to last paragraph of Section 5.

In addition, a sentence in Section 3.1 that states ''[a]ll Model Validations are performed by MVC, which consists of qualified persons who are free from influence from the persons responsible for the development or operation of the models being validated, as required by the risk management standards described in Section 2[.]'' would be revised to delete the clause ''as required by the risk management standards described in Section 2'' and the comma immediately preceding that clause would be deleted. This clause is unnecessary because it follows in a paragraph that already makes reference to the referenced ''risk management standards'' in a similar context.

Also, a sentence in Section 3.8 describes that as part of model performance monitoring, on at least a monthly basis, a sensitivity analysis is performed on each CCP's margin models, the key parameters and assumptions for backtesting of such margin models are reviewed, and modifications will be considered to ensure the backtesting practices are appropriate for determining the adequacy of such CCP's margin resources. This sentence ends with a clause that states ''which Quantitative Risk Management (''QRM'') performs as required by the risk management standards described in Section 2.'' The reference to the requirements of Section 2 is unnecessary when naming the group that performs these tasks. Therefore, Clearing Agencies will delete the clause referencing these requirements, and a comma that proceeds it, from the sentence in Section 3.8 described immediately above, and add a new sentence, to follow the existing sentence, stating that Quantitative Risk Management performs these functions, without referencing the requirements described in Section 2. The new sentence will read ''Quantitative Risk Management (''QRM'') performs these functions.'' In addition, in this same sentence, the proposed rule change will delete ''a'' that currently appears before the words ''sensitivity analysis''.

The proposed rule change also makes certain technical and grammatical corrections, including elimination of unused or misapplied defined terms. The proposed rule change deletes the text ''in compliance with applicable legal requirements'' from sentence in Section 1 (Executive Summary) that states that Section 3 of the Framework describes key aspects of the Framework in terms of the manner in which the Clearing Agencies identify, measure, monitor, and manage model risk. Referring to compliance with applicable legal requirements with respect to an individual section is unnecessary, because Section 1 contains a separate reference indicating that the Framework itself is designed to support compliance with the legal requirements set forth under the Covered Clearing Agency Standards relating to model risk management. The proposed rule change would also modify the beginning of the sentence described immediately above that currently includes the text ''Section 3 describes key aspects of the Framework in terms of the manner in which the Clearing Agencies identify, measure, monitor, and manage model risk . . .'' to delete the words ''Framework in terms of the'' to simplify the text by deleting a clause that does not enhance the meaning of the sentence.

Finally, the proposed rule change replaces a reference to ''quantitative models'' to ''models'' in the Executive Summary under Section 1. This use of ''quantitative'' is redundant because, by definition, models covered by the Framework are quantitative in nature.[25]

2. Statutory Basis

NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[26] as well as Rule 17Ad–22(e)(4), (e)(6), and (e)(7) thereunder,[27] for the reasons described below.

Section 17A(b)(3)(F) of the Act[28] requires, *inter alia,* that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. As described above, the

[24] Section 1 provides that this documentation each of which may be updated, amended, retired, or replaced from time to time. In this regard, the text would be updated to reflect that (i) ''DTCC Model Validation Procedures'' has been changed to ''Model Validation Procedures'', (ii) ''DTCC Model Performance Monitoring Procedures'' has been changed to ''DTCC Model Performance Standards & Policy'', and (iii) ''DTCC Backtesting Procedures'' has been changed to ''Clearing Agency Backtesting Procedures.'' Also, the ''Quantitative Risk Management Policy'' and ''Quantitative Risk Management Monitoring Procedures'' would be added as supporting documents.

[25] As noted above, pursuant to Section 3.1 of the Framework, the term ''model'' refers to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates.

[26] 15 U.S.C. 78q–1(b)(3)(F).

[27] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[28] 15 U.S.C. 78q–1(b)(3)(F).

Framework describes the process by which the Clearing Agencies identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The quantitative models covered by the Framework are utilized by the Clearing Agencies, as applicable, to manage risks associated with the safeguarding of securities and funds that are in their custody or control or for which they are responsible, and the proposed rule change clarifies the applicability of the Framework to specific models, thereby better supporting the ability of the Clearing Agencies to perform these important risk management functions and comply with other regulatory requirements, including Rule 19b–4.

Rule 17Ad–22(e)(4), (e)(6), and (e)(7) [29] requires, *inter alia,* that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage risks associated with its credit risk management models, margin models, and liquidity risk management models, as applicable. As discussed above, the proposed rule change clarifies the applicability of the Framework to such types of models, thereby better supporting the ability of the Clearing Agencies to comply with these requirements. Therefore, the Clearing Agencies believe that the proposed changes to the Framework are consistent with Rule 17Ad–22(e)(4), (e)(6), and (e)(7).[30]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe that the proposed rule change would have any impact, or impose any burden, on competition because the proposed rule change simply clarifies the scope and administration of the Framework by the Clearing Agencies and would not effectuate any changes to the Clearing Agencies' model risk management tools as they currently apply to their respective Members or Participants.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to this proposal. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

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) [31] of the Act and paragraph (f) [32] 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–2021–008 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–2021–008. 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 (*http://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–2021–008 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15189 Filed 7–16–21; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 240.17Ad–22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad–22(e)(6) and compliance therewith apply to the CCPs only and do not apply to DTC.

[30] *Id.*

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92398; File No. SR–IEX–2021–06]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Revise the Definitions of Retail Orders and Retail Liquidity Provider Orders and Disseminate a Retail Liquidity Identifier Under the IEX Retail Price Improvement Program

July 13, 2021.

I. Introduction

On April 1, 2021, the Investors Exchange LLC (''IEX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to enhance its Retail Price Improvement Program for the benefit of retail investors. The proposed rule change was published for comment in the **Federal Register** on April 15, 2021.[3] On May 26, 2021, pursuant to Section 19(b)(2) of the Act,[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91523 (April 9, 2021), 86 FR 19912 (April 15, 2021) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5]

The Commission received two comment letters regarding the proposed rule change, and one response to comments from the Exchange.[6] On July 2, 2021, the Exchange filed Amendment No. 1 to the proposed rule change.[7] The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and issuing this order approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

The Exchange proposes several changes to its Retail Price Improvement Program (the ''Program'').[8] Under the Program, IEX members that qualify as Retail Member Organizations (''RMOs'') are eligible to submit certain agency or riskless principal orders that reflect the trading interest of a natural person with a ''Retail order'' modifier. Retail orders are only eligible to execute at the midpoint price of the national best bid and national best offer (''Midpoint Price'') or better. Any IEX member is able to provide price improvement to Retail orders by submitting contra-side orders priced to execute at the Midpoint Price or better, including Retail Liquidity Provider (''RLP'') orders that are only eligible to execute against a Retail order at the Midpoint Price.

Retail Order Definition

First, the Exchange proposes to revise the definition of ''Retail order'' in IEX Rule 11.190(b)(15) such that Retail orders may only be submitted on behalf of a retail customer that does not place more than 390 equity orders per day on average during a calendar month for its own beneficial account(s) (the ''390-Order Limit'').[9] Currently, ''Retail orders'' under the Exchange's Program must reflect the trading interest of a natural person and meet other requirements, but they are not classified based on a per-day order threshold. The Exchange's proposal also specifies the counting methodology[10] and supervisory requirements[11] to determine whether a retail customer has reached the 390-Order Limit.

Retail Liquidity Identifier

Next, the Exchange proposes to disseminate a ''Retail Liquidity Identifier'' to inform RMOs of the presence of RLP trading interest on the Exchange in order to incentivize RMOs to send Retail orders to the Exchange.[12] Specifically, the Exchange proposes new IEX Rule 11.232(f) to disseminate a Retail Liquidity Identifier through the Exchange's proprietary market data feeds and the appropriate securities information processor (''SIP'') when resting available RLP order interest aggregates to form at least one round lot for a particular security,[13] provided that the RLP order interest is resting at the Midpoint Price[14] and is priced at least $0.001 better[15] than the national best bid or national best offer. The Retail Liquidity Identifier will reflect the symbol and the side (buy or sell) of the RLP order interest, but will not include the price or size.[16]

RLP Order Definition

In conjunction with the proposed Retail Liquidity Identifier, the Exchange proposes to revise the definition of ''RLP order'' in IEX Rule 11.190(b)(14) so that such orders can only be midpoint peg orders (as defined in IEX Rule 11.190(b)(9)) and cannot include a minimum quantity restriction. Currently, an RLP order is a discretionary peg order (as defined in IEX Rule 11.190(b)(10)). The Exchange believes that continuing to have RLP orders be discretionary peg orders would unnecessarily complicate the Retail Liquidity Identifier because, under the Exchange's rules, discretionary peg orders do not explicitly post to the Exchange's order book (''Order Book'') at the Midpoint Price.[17] The Exchange further notes that permitting an RLP order to include a minimum quantity restriction would reduce the determinism of the order's availability to trade at the Midpoint Price; the Exchange believes that prohibiting quantity restrictions will increase execution rates for Retail orders.[18]

RLP Order Priority

As originally proposed, the revised RLP orders would have been given Order Book priority over non-displayed orders priced to execute at the Midpoint Price.[19] However, in Amendment No. 1, the Exchange revised its proposal so that the Exchange's regular priority rules (*i.e.,* price/time) would apply equally to RLP orders and non-RLP orders at the midpoint, thus eliminating the originally proposed Order Book priority for RLP orders. Accordingly, under the revised proposal set forth in Amendment No. 1, RLP orders resting at the Midpoint Price will be ranked against resting non-displayed orders priced to execute at the Midpoint Price

[5] *See* Securities Exchange Act Release No. 92029 (May 26, 2021), 86 FR 29608 (June 2, 2021).

[6] Comments received on the proposal are available on the Commission's website at: *https://www.sec.gov/comments/sr-iex-2021-06/sriex202106.htm.*

[7] In Amendment No. 1, the Exchange proposes to modify the proposal to rank RLP orders (as defined below) in time priority with non-displayed orders priced to execute at the Midpoint Price (as defined below), rather than ahead of such orders as originally proposed. The full text of Amendment No. 1 is available on the Commission's website at: *https://www.sec.gov/comments/sr-iex-2021-06/sriex202106-9041946-246227.pdf.*

[8] *See* Securities Exchange Act Release No. 86619 (August 9, 2019), 84 FR 41769 (August 15, 2019) (SR–IEX–2019–05) (order approving the IEX Retail Price Improvement Program).

[9] *See also* proposed IEX Rule 11.190(b)(15), Supplementary Material .01 (further defining ''Retail order'').

[10] Under the proposal, certain ''parent'' orders that are broken into multiple ''child'' orders will count as one order even if the ''child'' orders are routed across multiple exchanges; with certain exceptions, any order that cancels and replaces an existing order will count as a separate order. *See* proposed IEX Rule 11.190(b)(15), Supplementary Material .01.

[11] Under the proposal, RMOs (as defined in IEX Rule 11.232) would be required to have reasonable policies and procedures in place to ensure that Retail orders are appropriately represented on the Exchange. Such policies and procedures would need to provide for a review of retail customers' activity on at least a quarterly basis. Orders from any retail customer that exceeded an average of 390 equity orders per day during any month of a calendar quarter may not be entered as ''Retail orders'' for the next calendar quarter. RMOs would be required to conduct a quarterly review and make any appropriate changes to the way in which they are representing orders within five business days after the end of each calendar quarter. While RMOs would only be required to review their accounts on a quarterly basis, if during a quarter the Exchange identifies a retail customer for which orders are being represented as Retail orders but that has averaged more than 390 equity orders per day during a month, the Exchange will notify the RMO, and the RMO will be required to change the manner in which it is representing the retail customer's orders within five business days. *See* proposed IEX Rule 11.190(b)(15), Supplementary Material .02.

[12] *See* Notice, *supra* note 3, at 19914.

[13] The Exchange believes the one round lot requirement is appropriate in order to limit dissemination to when there is a material amount of RLP order interest available. *See id.* at 19915.

[14] The Exchange notes that an RLP order could have a limit price less aggressive than the Midpoint Price, in which case it would not be eligible to trade with an incoming Retail order. Such RLP orders would not be included in the Retail Liquidity Identifier dissemination. *See id.*

[15] The Exchange notes that, because the RLP orders will be resting at the Midpoint Price, IEX's Retail Liquidity Identifier will reflect at least $0.005 of price improvement for any orders priced at or above $1.00 per share, unless the national best bid or offer is locked or crossed. *See id.*

[16] The Exchange notes that, while an explicit price will not be disseminated, because RLP orders are only eligible to trade at the Midpoint Price, dissemination will thus reflect the availability of price improvement at the Midpoint Price. *See id.* at 19914–15.

[17] *See id.* at 19915.

[18] *See id.*

[19] *See id.* at 19914.

based on time priority since all such prices will be at the Midpoint Price.[20]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers; and with Section 6(b)(8) of the Act,[23] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Retail Order Definition

First, the Exchange proposes to amend the definition of Retail order by adopting the 390-Order Limit and setting forth criteria to determine when this limit is reached and how it is enforced. The Exchange notes that one other equities exchange, Cboe EDGX Exchange, Inc. (''EDGX''), uses the same 390 orders-per-day average in its retail liquidity program to delineate EDGX Retail Priority Orders, and applies a counting methodology and supervisory requirements that are substantially similar to those being proposed by IEX.[24] The Exchange believes that the 390-Order Limit is reasonable and not overly restrictive because it contemplates active trading, while not reaching a level to indicate one is a professional trader.[25] The Exchange further believes that limiting the types of investors on whose behalf Retail orders can be submitted to those who are less likely to be professional market participants, will expand the pool of market participants willing to provide contra-side liquidity because of the Retail orders' non-professional characteristics, thereby increasing price improvement opportunities for Retail orders at midpoint prices.[26]

The Commission received two letters from one commenter, both of which focus on the 390-Order Limit,[27] and the Exchange submitted a single response to both letters.[28] The commenter expresses concern with the 390-Order Limit based on his experience with the use of ''professional'' customer rules in the options market. Specifically, the commenter states that, in the present-day options market, there is low likelihood that customer origin code orders enjoy a meaningful priority advantage over market makers, and the 390-order threshold effectively limits competition between non-professional liquidity providers and market makers.[29] The commenter suggests that the ''professional'' customer designation in the options market has over time created a ''two-tiered'' market that benefits market makers and limits how many orders a ''secondary'' liquidity provider will be willing to display (before they trip the ''professional'' customer threshold), and thus detracts from the incentive for market makers to display their best price, which leads to wider bid/ask spreads for options.[30] In addition, the commenter believes that the ''professional'' customer designation in options limits the probability of customer-to-customer trades, especially when accounting for the likelihood of make vs. take orders posting on different exchanges because of differing fee and rebate incentives.[31] The commenter further states that applying a 390-order threshold to equities, as IEX proposes to do for its Program, would cater to preferred members by giving them a more attractive pool of order flow to trade against, and will provide a ''short lived'' benefit of better prices to retail customers.[32] The commenter is critical of payment for order flow and the small amount of price improvement it often provides to customers, and recommends that the quality of an execution should be based on all liquidity in the market (including hidden liquidity) and not just displayed liquidity that can be negatively impacted by competitive dynamics.[33] Further, the commenter is critical of the ambiguity inherent in the application of the 390-order threshold across broker-dealers in the options market, and believes similar interpretive questions could be present in the equities context.[34]

In its response letter, IEX states its belief that the commenter's concerns about options market practices ''cannot be reasonably extrapolated to the use of retail liquidity provider programs for equity exchanges, or to IEX's Retail Program in particular.'' [35] IEX points out that the commenter focuses on the impact of the 390-order threshold on options orders seeking to provide liquidity, but IEX explains that the 390-Order Limit only applies to Retail orders under the Program, which are never displayed and can only take resting liquidity.[36] Accordingly, Retail orders will never post to the Order Book, will never be flagged as Retail orders in any market data, and do not directly contribute to or impact IEX's bid/ask spread.[37] Thus, IEX argues that the commenter's concerns with the 390-Order Limit ''are not at issue in our proposal.'' [38]

Further in response to the commenter's concerns about how the 390-order threshold in options can harm non-professionals who limit their trading to avoid crossing the threshold, the Exchange argues that the market for retail order flow is already ''two-tiered'' in that the preponderance of retail orders are executed on non-exchange venues, and that this proposal seeks to enhance IEX's ability to compete for retail order flow while providing meaningful price improvement to retail customers.[39]

The Commission believes that the commenter raises concerns that merit further consideration about the application of a 390-order threshold for ''professional'' customer status in the options market, particularly as that market has continued to evolve since those designations were first introduced. In the options market,

[20] *See supra* note 7.

[21] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78f(b)(8).

[24] *See* Notice, *supra* note 3, at 19914.

[25] *See id.*

[26] *See id.*

[27] *See* letters to Vanessa Countryman, Secretary, Commission, from Mike Ianni, dated May 5, 2021 (''Ianni Letter 1'') and May 30, 2021 (''Ianni Letter 2'').

[28] *See* letter to Vanessa Countryman, Secretary, Commission, from Claudia Crowley, Chief Regulatory Officer, IEX, dated June 29, 2021 (''IEX Response'').

[29] *See* Ianni Letter 1, *supra* note 27, at 2–3; and Ianni Letter 2, *supra* note 27, at 2.

[30] *See* Ianni Letter 1, *supra* note 27, at 4; and Ianni Letter 2, *supra* note 27, at 4 and 7–8.

[31] *See* Ianni Letter 2, *supra* note 27, at 2.

[32] *See* Ianni Letter 1, *supra* note 27, at 3.

[33] *See id.*

[34] *See* Ianni Letter 2, *supra* note 27, at 6.

[35] *See* IEX Response, *supra* note 28, at 3.

[36] *See id.* at 4.

[37] *See id.* at 4–5.

[38] *See id.* at 4.

[39] *See id.* at 5–6. The Exchange also points to existing precedent for applying the 390-Order Limit to an equity exchange. *See id.* at 5 (citing Securities Exchange Act Release No. 87200 (October 2, 2019), 84 FR 53788 (October 8, 2019) (SR–CboeEDGX–2019–012)).

particularly those that offer to the ''customer'' origin code the highest priority (including over market makers) and often low or no fees, there can potentially be a meaningful difference between being classified as a ''customer'' or a ''professional'' customer, as the latter is typically subject to the same priority and fee levels as other broker-dealers, including those with the most sophisticated and costly trading resources. Thus, in the options market, crossing the 390-order threshold and being labeled as a ''professional'' customer can potentially matter to some frequent traders.

However, IEX is not proposing to use the 390-Order Limit to classify order origin codes into ''customer'' and ''professional'' customer for general trading purposes. IEX is not creating a new class of ''professional'' customer for the equities market. Rather, the 390-Order Limit will only be used to classify certain orders seeking to take liquidity in the exclusive context of IEX's Program. IEX's proposal provides a bright-line test that broker-dealers can use to ascertain whether orders they route to IEX under IEX's Program are individual retail investor orders or are orders from market participants that IEX believes trade with a frequency that is uncharacteristic of a typical individual retail investor trading for her personal investment account. Moreover, whether a retail investor exceeds the 390-Order Limit or not, IEX's proposal will not change the priority status or fees of any customer order outside of the Program. Instead, the new threshold only further restricts what types of incoming take orders can interact with a resting RLP order.[40]

While the commenter acknowledges the potential for price improvement for retail investors under IEX's proposal, the commenter believes that any such benefits will be ''short lived,'' and that this proposal opens up the possibilities for similar rules by other equity exchanges that could have negative consequences to liquidity in the equity market over the longer term, such as higher fees for ''professional'' customers.[41] The Commission does not believe that the proposal's benefits of providing midpoint prices (or better) to retail investors under the Program will be short-lived because midpoint prices can provide meaningful price improvement under different market conditions.[42] Further, because IEX's proposal is limited to classifying incoming retail orders that remove liquidity for the narrow purpose of its Program, it is not comparable to a broader ''professional'' customer rule as currently exists in the options market.

The commenter also points to what the commenter believes to be competitive harm that the options market versions of a 390-order threshold have caused. The commenter believes that some retail traders in the options market may stop trading as they approach the 390-order threshold, often after being warned by their retail broker that they are approaching the threshold, so as to avoid losing ''regular'' customer status should they exceed that limit.[43] The commenter also cautions that a desire to limit trading to stay under the 390-order threshold in the options market can limit the ability of traders to use small orders to seek out the best hidden prices[44] and can potentially result in wider options spreads if secondary liquidity providers do not compete to provide liquidity in order to limit their trading to stay under the threshold.[45] The Commission agrees with the Exchange that it is difficult to definitely ascribe, without more evidence, a causal link between the adoption of professional customer status in the options markets with wider spreads.[46] Nevertheless, the proposal's 390-Order Limit should not constrain the ability or willingness of liquidity providers to provide liquidity. First, any liquidity-providing market participant can submit RLP orders and exceeding 390 orders per day would have no effect on the participant's ability to do so. Second, RLP orders are non-displayed orders that yield priority to displayed orders, including displayable odd lot orders at executable prices, and thus should not directly impact IEX's bid/ask spreads.[47] While a program that segments retail order flow away from displayed exchange quotes could theoretically impact spreads if it impacts the willingness of liquidity providers to display tighter quotes, IEX correctly notes that much of the retail volume today executes away from exchanges, and thus, IEX's proposal is appropriately regarded as a way to compete to bring that flow back onto an exchange. Third, while the proposed threshold could impact liquidity takers (*i.e.,* retail traders that exceed the 390-Order Limit) because they would lose the ability to interact with resting RLP orders on IEX, liquidity takers' orders could still be submitted to IEX or other exchanges for potential midpoint executions (*e.g.,* against midpoint peg orders).

Finally, citing to his experience in the options market, the commenter believes that interpretation and enforcement of the 390-Order Limit could be difficult because, for example, he has observed ambiguity and inconsistency among broker-dealers in the options market with respect to how orders should be counted towards the 390 threshold.[48] IEX has represented that its regulatory program will be enhanced for this proposal.[49] The Commission believes that the proposed threshold is clear and applies to an investor that places ''more than 390 equity orders per day on average during a calendar month for its own beneficial account(s)''.[50] To the extent that market participants have interpretive questions, the Exchange should address them and, if necessary, amend its rule to provide additional clarity.

Accordingly, and based on the foregoing, the Commission finds that the proposed changes to the Exchange's definition of Retail order, including the proposed new 390-Order Limit, are consistent with the Act.

[40] While RLP orders will only execute with incoming Retail orders, an incoming Retail order can interact with any order (*i.e.,* not just RLP orders) priced to execute at the Midpoint Price or better.

[41] *See* Ianni Letter 1, *supra* note 27, at 3–4.

[42] With respect to the commenter's statement that the quality of a fill should be based on all liquidity available in the market (including hidden liquidity) (*see* Ianni Letter 1, *supra* note 27, at 3), the Commission recently adopted rules to require that certain displayable odd-lot orders be included in core consolidated market data and thus reflected in the best bid and ask prices. *See* Securities Exchange Act Release No. 90610 (December 9, 2020), 86 FR 18596 (April 9, 2021) (S7–03–20) at 18611–14.

[43] *See* Ianni Letter 2, *supra* note 27, at 4. In both letters, the commenter also provides analysis of problems within the options market structure as it applies to giving retail customers priority. *See, e.g.,* Ianni Letter 1, *supra* note 27, at 1 (stating that ''there is NO real customer 'priority' advantage gained by retail options customers because of the following: (1) More strikes and volatile markets (2) Payment for order flow accounting for a majority of customer orders (3) Market fragmentation (4) Price Improvement rules''). The Commission appreciates the commenter taking time to provide such an analysis. However, any such issues related to the options market structure are outside the scope of this approval order, and thus, cannot be addressed by the Commission herein.

[44] *See* Ianni Letter 1, *supra* note 27, at 4 (''I will knowingly pay a 'likely' higher price for an option just to save on the number of orders I send. I would argue that there is no such thing as 'best execution' for retail customers in the equity options market today because of the 390-order rule. You are asking all investors to sacrifice 'best execution' over customer status.'')

[45] *See* Ianni Letter 2, *supra* note 27, at 7.

[46] *See* IEX Response, *supra* note 28, at 3–4.

[47] Retail orders cannot affect the IEX bid-ask spread because those orders neither display nor rest on the Order Book.

[48] *See* Ianni Letter 2, *supra* note 27, at 5.

[49] *See* Notice, *supra* note 3, at 19916.

[50] *See* proposed IEX Rule 11.190(b)(15) and Supplementary Material .01 thereto.

Retail Liquidity Identifier and Revisions to RLP Orders

Next, the Exchange proposes to disseminate a Retail Liquidity Identifier when RLP orders resting on the Order Book aggregate to form at least one round lot, provided that the RLP order interest is resting at the Midpoint Price and is priced at least $0.001 better than the national best bid or national best offer. According to the Exchange, the purpose of the Retail Liquidity Identifier is to provide relevant market information to RMOs that there is some RLP trading interest at the Midpoint Price on the Exchange, thereby incentivizing RMOs to send Retail orders to IEX.[51] In conjunction with its proposal to disseminate the Retail Liquidity Identifier, the Exchange proposes to amend the definition of RLP orders so such orders can only be midpoint peg orders without a minimum quantity restriction. The Exchange believes that disseminating a Retail Liquidity Identifier to indicate RLP orders resting at the Midpoint Price would be unnecessarily complicated if RLP orders were to continue to be discretionary peg orders, because discretionary peg orders do not explicitly post to the Order Book at the Midpoint Price.[52] Likewise, the Exchange believes that attaching a minimum quantity to an RLP order would hinder a market participant's ability to determine the availability of trading interest at the Midpoint Price, given that the interest would only be available to counterparties able to meet the minimum quantities.[53]

As noted by the Exchange, similar retail liquidity identifiers are currently disseminated by other exchanges that offer retail programs, though other exchange programs typically allow the equivalent to RLP orders to rest undisplayed at prices that improve the displayed quote by subpenny increments.[54] The Commission believes that IEX's Retail Liquidity Identifier will serve a similar purpose as the identifiers currently disseminated by other exchanges, as it will inform market participants that have or control retail order flow about the availability of price improvement opportunities for Retail orders. In turn, market participants that have or control retail order flow would normally be expected to use that information as they assess the best prices available for the customer. Given the potential benefits to individual investors and any increased likelihood that they may be able to obtain midpoint executions, the Commission believes that the Retail Liquidity Identifier is appropriately designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.[55]

Furthermore, the Commission finds that limiting RLP orders to be midpoint peg orders without a minimum quantity option is an appropriate compliment to the proposed Retail Liquidity Identifier. As explained above, the Retail Liquidity Identifier is meant to notify RMOs that there is Midpoint-Priced liquidity available on the Exchange. As such, the Commission believes that requiring RLP orders to be midpoint peg orders without the option to designate a minimum quantity condition provides an increased chance of execution to incoming Retail orders and makes the Retail Liquidity Identifier a more reliable indicator of available midpoint liquidity.

Finally, as originally proposed, the revised RLP orders would have been given Order Book priority over non-displayed orders priced to execute at the Midpoint Price.[56] However, in Amendment No. 1, the Exchange revised its proposal so that the Exchange's regular priority rules (*i.e.,* price/time) would apply equally to RLP orders and such non-displayed orders, thus eliminating the originally proposed Order Book priority for RLP orders. IEX cites to precedent from at least one other exchange's retail program providing that when a retail liquidity providing order is at the same price as a non-displayed order, the orders will be ranked together with time priority.[57] The Commission finds that IEX's revised proposal to not provide a priority advantage to RLP orders over other non-displayed orders priced to execute at the Midpoint Price is not unfairly discriminatory as it does not provide an advantage to an order that will only interact with incoming Retail orders (*i.e.,* RLP orders) over orders that are not so restricted (*e.g.,* midpoint peg orders). Treating both in time priority and allowing incoming Retail orders to interact with either is designed to promote just and equitable principles of trade and not impose an inappropriate burden on competition.

For the foregoing reasons, the Commission believes that IEX's proposed changes to its Program are consistent with the Act in that they are reasonably 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 are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2021–06 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–IEX–2021–06. 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 this filing will also be available for inspection and copying at the principal

[51] *See* Notice, *supra* note 3, at 19914.

[52] *See id.* at 19915.

[53] *See id.*

[54] *See id.*

[55] In connection with this proposal, the Exchange states that it plans to submit a letter requesting that the staff of the Division of Trading and Markets not recommend any enforcement action under Rule 602 of Regulation NMS (''Quote Rule'') based on the Exchange's and its members' participation in the Program. *See id.* at 19914 n.39. In its filing, the Exchange asserts that the information proposed to be contained in the Retail Liquidity Identifier does not constitute a ''quote'' within the meaning of Regulation NMS because it would not include a specific price or size of the interest. *See id.* at 19914.

[56] *See* Notice, *supra* note 3, at 19914.

[57] *See* Amendment No. 1, *supra* note 7, at 8 (citing NYSE Arca Rule 7.44–E(l)).

office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2021–06 and should be submitted on or before August 9, 2021.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. Amendment No. 1 revises the original proposal by amending IEX Rule 11.232(e)(3)(A) to provide that RLP orders now will be ranked in time priority with non-displayed orders priced to execute at the Midpoint Price, rather than ahead of such orders as was originally proposed. Thus, at the priority level specified in IEX Rule 11.232(e)(3)(A)(iii), incoming Retail orders will execute against RLP orders and non-displayed orders priced to trade at the Midpoint Price in price/time priority.

In Amendment No. 1, the Exchange states that based on additional analysis of the potential benefits and burdens of RLP orders and non-displayed orders priced to trade at the Midpoint Price, it determined that RLP orders should be ranked in time priority with such other orders, consistent with the Exchange's regular price/time priority. The Exchange states that the proposed priority change does not raise any new or novel issues as it is consistent with the rules of other exchanges' retail liquidity programs, including NYSE Arca, as noted above.[58]

The changes to the proposal do not raise any novel regulatory issues, as they are consistent with the rules of other exchange retail programs previously approved by the Commission. Further, the changes assist the Commission in evaluating the Exchange's proposal and in determining that it is consistent with the Act as discussed above. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[59] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

[58] *See supra* note 57 and accompanying text.

[59] 15 U.S.C. 78s(b)(2).

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[60] that the proposed rule change (SR–IEX–2021–06), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

J. Matthew DeLesDernier,

Assistant Secretary.

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[60] 15 U.S.C. 78s(b)(2).

[61] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92384; File No. SR–GEMX–2021–06]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 2, Section 5, Market Maker Quotations

July 13, 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 June 30, 2021, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 2, Section 5, Market Maker Quotations.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/gemx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend GEMX Rules at Options 2, Section 5, Market Maker Quotations. Currently, the Exchange requires Competitive Market Makers [3] and Primary Market Makers [4] to enter bids and offers for the options to which they are registered, except in an assigned options series listed intra-day on the Exchange.[5] Quotations must meet the legal quote width requirements specified in Options 2, Section 4(b)(4).[6] On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed. A Competitive Market Maker may initiate quoting in options classes to which it is appointed intra-day. If a Competitive Market Maker initiates quoting in an options class, the Competitive Market Maker, associated with the same Member,[7] is collectively required to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Member's assigned options class is open for trading.[8] Notwithstanding the foregoing, a Competitive Market Maker shall not be required to make two-sided markets pursuant to Options 2, Section 5(e)(1) in any Quarterly Options Series, any adjusted options series, and any option series with an expiration of nine months or greater for options on equities and exchange-traded funds (''ETFs'') or with an expiration of twelve months or greater for index options. Competitive Market Makers may choose to quote such series in addition to regular series

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Competitive Market Maker'' means a Member that is approved to exercise trading privileges associated with CMM Rights. *See* Options 1, Section 1(a)(12).

[4] The term ''Primary Market Maker'' means a Member that is approved to exercise trading privileges associated with PMM Rights. *See* Options 1, Section 1(a)(35).

[5] Options 2, Section 5(e).

[6] Options 2, Section 4(b)(4) describes bid/ask differentials.

[7] The term ''Member'' means an organization that has been approved to exercise trading rights associated with Exchange Rights. *See* General 1, Section 1(a)(13)[sic].

[8] Options 2, Section 5(e)(1).

in the options class, but such quotations will not be considered when determining whether a Competitive Market Maker has met the obligation.[9] Primary Market Makers, associated with the same Member are collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that Member's assigned options class is open for trading. Primary Market Makers are required to make two-sided markets in any Quarterly Options Series, any Adjusted Options Series, and any option series with an expiration of nine months or greater for options on equities and ETFs or with an expiration of twelve months or greater for index options.[10]

A Member is required to meet each market making obligation separately.[11] Currently, Options 2, Section 5(e) states, ''A Competitive Market Maker who is also the Primary Market Maker will be held to the Primary Market Maker obligations in the options series in which the Primary Market Maker is assigned and will be held to Competitive Market Maker obligations in all other options series where assigned. A Competitive Market Maker who receives a Preferenced Order, as described in Options 2, Section 10 and Options 3, Section 10 will be held to the standard of a Preferred CMM in the options series of any options class in which it receives the Preferenced Order.'' [12]

Today, the Exchange calculates whether a Member that is assigned in an options series as both a Primary Market Maker and a Competitive Market Maker has met its quoting obligations as Primary Market Maker and Competitive Market Maker, respectively, by aggregating all quotes submitted through the Specialized Quote Feed [13] interface from the Member, whether the quote was submitted by the Member in its capacity as Primary Market Maker or Competitive Market Maker.

The Exchange proposes to amend its calculation to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges [14] and options series [15] assigned to a Primary Market Maker when calculating whether a Member acting as a Primary Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as GEMX may announce for which that Member's assigned options class is open for trading. Similarly, the Exchange proposes to only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and options series assigned to a Competitive Market Maker when calculating whether a Member acting as a Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as GEMX may announce for which that Member's assigned options class is open for trading, provided the Competitive Market Maker initiated quoting in an options class for which that Member's assigned options class is open for trading. With this proposed change, a Member that is a Competitive Market Maker in an options series where the Member is also assigned as the Primary Market Maker in an options series will be held to both the Primary Market Maker and Competitive Market Maker obligations, pursuant to Options 2, Section 5(e), separately, in that options series. The Exchange will consider whether a Member, acting as both Primary Market Maker and Competitive Market Maker in an assigned options series, has complied with each requirement by only considering quotes in the respective badges.

By way of example,

Current Quoting obligation methodology:

Primary Market Maker firm 123 is assigned five badges: 123A, 123B, 123C, 123D and 123E.

Badge 123A is designated the Primary Market Maker badge and badge 123B–E are designated as Competitive Market Maker badges.

Today, all quoting activity from all 5 badges is aggregated in determining if Firm 123 complied with the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that Member's assigned options series are open for trading. The higher of the two obligations is required today.

Proposed Quoting obligation methodology:

Primary Market Maker firm 123 is assigned five badges: 123A, 123B, 123C, 123D and 123E.

Badge 123A is designated the Primary Market Maker badge and badge 123B–E are designated as Competitive Market Maker badges.

As proposed only quoting activity from badge 123A (and excluding badges 123 B–E) would be counted toward the requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which that Member's assigned options series are open for trading.

All other badges (123 B–E), excluding badge 123A, would be counted toward the requirement to provide two-sided quotations in 60% of the cumulative number of seconds for which that Member's assigned options series are open for trading.

A Member may have only one Primary Market Maker badge per option series.

The below example explains how the Exchange aggregates quotes from Primary Market Makers, in their assigned options series, to determine compliance with quoting requirements, which will not be changing pursuant to this proposal. The same calculation applies to quotes from Competitive Market Makers in their assigned options series.

Under the proposal, and as is the case today, by way of example, assume Primary Market Maker Firm ABC assigned in five symbols across 2 different badges:

Badge 123A and B is assigned in symbols QQQ and SPY, respectively.

Badge 124A, B and C is assigned in symbols IBM, GM, and MSFT, respectively. Quotes submitted through the Specialized Quote Feed interface from the Firm ABC's Primary Market Maker badges from all 5 symbols will be counted in determining compliance

[9] Options 2, Section 5(e)(1).

[10] Options 2, Section 5(e)(2).

[11] *See* Options 2, Section 5(e). Today, the Exchange aggregates all quotes submitted through the Specialized Quote Feed interface from the Member, regardless of whether the quote was submitted by the Member in its capacity as Primary Market Maker or Competitive Market Maker.

[12] Preferred Competitive Market Makers are subject to enhanced quoting requirements as provided in Options 2, Section 5(e)(3). *See* Options 3, Section 10 at Supplementary Material .01.

[13] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) Options symbol directory messages (*e.g.,* underlying instruments); (2) System event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. *See* Options 3, Section 7 at Supplementary Material .03(c).

[14] A ''badge'' shall mean an account number, which may contain letters and/or numbers, assigned to Market Makers. A Market Maker account may be associated with multiple badges. *See* Options 1, Section 1(a)(5).

[15] GEMX currently utilizes a badge with an associated options series to designate a Primary Market Maker assigned in an options series and a badge with an associated options series to designate a Competitive Market Maker assigned in an option series.

with Firm ABC's requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading.

If Firm ABC Primary Market Maker badge 123A quotes symbol QQQ at 95% and badge 123B quotes symbol SPY at 90% and Firm ABC Primary Market Maker badge 124A quotes IBM at 85%, badge 124B quotes GM at 95%, and badge 124C quotes MSFT at 90% then Firm ABC will have met requirement to provide two-sided quotations in 90% of the cumulative number of seconds for which Firm ABC's assigned options series are open for trading because the percentage across the 5 symbols is 91%.

Implementation

The Exchange proposes to implement this rule change on August 2, 2021. The Exchange has issued an Options Regulatory Alert notifying Members of this change.[16]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by requiring Primary Market Makers and Competitive Market Makers to separately meet quoting requirements as both a Primary Market Maker and Competitive Market Maker, respectively, when the Member is assigned in both roles in an options series.

The Exchange's proposal to separately calculate Competitive Market Maker and Primary Market Maker quoting obligations where the Member is assigned as both Primary Market Maker and Competitive Market Maker in an options series is consistent with the Act. Specifically, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and options series assigned to a Primary Market Maker when calculating whether a Member acting as a Primary Market Maker has satisfied the requirements to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as GEMX may announce for which that Member's assigned options series are open for trading. Similarly, the Exchange's proposal would only consider quotes submitted through the Specialized Quote Feed interface utilizing badges and option series assigned to a Competitive Market Maker when calculating whether a Member acting as a Competitive Market Maker has satisfied the requirements to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as GEMX may announce for which that Member's assigned options series are open for trading.

The proposed change for calculating the Primary Market Maker requirement separate from the Competitive Market Maker requirement, where a Member is assigned in both roles in an options series, would ensure that the Member quotes the requisite number of seconds in an assigned options series, when acting as both Primary Market Maker and Competitive Market Maker. This would ensure that a Member adds the requisite amount of liquidity in that assigned options series in exchange for certain benefits offered by the Exchange to the Member, such as enhanced Primary Market Maker allocation[19] and favorable pricing,[20] in addition to the Member fulfilling other market making obligations specified in Options 2, Section 4(a) and (b).[21]

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. Rather, the proposal would ensure that Members that are assigned in an options series as both the Primary Market Maker and Competitive Market Maker, respectively, are meeting the same quoting obligations as other Members who are assigned solely as either the Primary Market Maker or Competitive Market Maker in an option series. Also, this proposal would ensure that a Member quotes the requisite number of seconds in an assigned options series, when acting as both Primary Market Maker and Competitive Market Maker, respectively, thereby adding the requisite amount of liquidity in exchange for certain benefits provided by the Exchange such as enhanced Primary Market Maker allocation[22] and favorable pricing,[23] in addition to fulfilling its other market making obligations specified in Options 2, Section 4(a) and (b).[24]

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 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[25] and Rule 19b–4(f)(6) thereunder.[26]

A proposed rule change filed under Rule 19b–4(f)(6)[27] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[28] 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

[16] *See* Options Regulatory Alert 2021–36.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Options 3, Section 10(c)(1)(B).

[20] *See* Options 7, Pricing Schedule.

[21] *General.* Transactions of a Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such a course of dealings. *Appointment.* With respect to each options class to which a Market Maker is appointed under Options 2, Section 3, the Market Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular options contract, or a temporary distortion of the price relationships between options contracts of the same class. Without limiting the foregoing, a Market Maker is expected to perform the following activities in the course of maintaining a fair and orderly market: (1) To compete with other Market Makers to improve the market in all series of options classes to which the Market Maker is appointed. (2) To make markets that, absent changed market conditions, will be honored for the number of contracts entered into the Exchange's System in all series of options classes to which the Market Maker is appointed. (3) To update market quotations in response to changed market conditions in all series of options classes to which the Market Maker is appointed.

[22] *See* note 19 above.

[23] *See* note 20 above.

[24] *See* note 21 above.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[27] 17 CFR 240.19b–4(f)(6).

[28] 17 CFR 240.19b–4(f)(6)(iii).

upon filing. Waiving the operative delay will allow the Exchange to amend, without delay, its rules regarding Market Maker quoting obligations to ensure that Members assigned in an options series as both the Primary Market Maker and Competitive Market Maker would have the same quoting obligations as Members who are assigned solely as either Primary Market Maker or Competitive Market Maker in an option series. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby designates the proposed rule change to be operative upon filing.[29]

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–GEMX–2021–06 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–GEMX–2021–06. 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–GEMX–2021–06 and should be submitted on or before August 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15190 Filed 7–16–21; 8:45 am]

BILLING CODE 8011–01–P

[29] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[30] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16932 and #16933; KENTUCKY Disaster Number KY–00084]

Presidential Declaration Amendment of a Major Disaster for the State of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of KENTUCKY (FEMA–4595–DR), dated 04/23/2021.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/27/2021 through 03/14/2021.

DATES: Issued on 06/24/2021.

Physical Loan Application Deadline Date: 07/23/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 01/24/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of KENTUCKY, dated 04/23/2021, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/23/2021.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–15269 Filed 7–16–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17001 and #17002; Louisiana Disaster Number LA–00113]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Louisiana

AGENCY: Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–4590–DR), dated 06/22/2021.

Incident: Severe Winter Storms.

Incident Period: 02/11/2021 through 02/19/2021.

DATES: Issued on 07/09/2021.

Physical Loan Application Deadline Date: 08/23/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 03/22/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Louisiana, dated 06/22/2021, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Parishes: Bienville, Calcasieu, Caldwell, Claiborne, Franklin, Iberville, Livingston,

Natchitoches, Rapides, Richland, Sabine, Tensas, Webster, West Carroll.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator, for Disaster Assistance.

[FR Doc. 2021–15268 Filed 7–16–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11466]

Department of State FY 2019 Service Contract Inventory

AGENCY: Department of State.

ACTION: Notice of release of the Department of State's FY 2019 Service Contract Inventory.

SUMMARY: Acting in compliance with Section 743 of Division C of the Consolidated Appropriations Act of 2010, the Department of State is publishing this notice to advise the public of the availability of the FY 2019 Service Contract Inventory. The FY 2019 Service Contract Inventory includes the FY 2019 Planned Analysis, and the FY 2018 Meaningful Analysis.

DATES: The inventory is available on the Department's website as of July 9, 2021.

FOR FURTHER INFORMATION CONTACT: Marlon D. Henry, Management and Program Analyst, A/EX/CSM, 202–485–7210, *HenryMD@state.gov.*

SUPPLEMENTARY INFORMATION: The inventory was developed in accordance with guidance issued by the Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP). The Department of State has posted its FY 2019 Service Contract Inventory at the following link: *https://csm.state.gov/index2.html.*

Zachary A. Parker,

Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2021–15278 Filed 7–16–21; 8:45 am]

BILLING CODE 4710–24–P

SUSQUEHANNA RIVER BASIN COMMISSION

Grandfathering (GF) Registration Notice

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: June 1–30, 2021.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, Subpart E for the time period specified above:

Grandfathering Registration Under 18 CFR Part 806, Subpart E

1. Aqua Pennsylvania, Inc.—Susquehanna Division, GF Certificate No. GF–202106166, Athens Borough, Bradford County, Pa.; Well 19; Issue Date: June 9, 2021.
2. Vulcan Construction Materials, LLC—Hanover Quarry, GF Certificate No. GF–202106167, Oxford, Conewago, and Berwick Townships, Adams County, Pa.; Quarry Pit (Sump) and consumptive use; Issue Date: June 9, 2021.
3. Corning Incorporated—Houghton Park, GF Certificate No. GF–202106168, City of Corning, Steuben County, N.Y.; Wells 1, 2, 3, and 4; Issue Date: June 9, 2021.
4. Municipal Authority of the Borough of Mansfield—Public Water Supply System, GF Certificate No. GF–202106169, Richmond Township, Tioga County, Pa.; Springs 1 and 2 and Webster Reservoir; Issue Date: June 17, 2021.
5. Williamsport Municipal Water Authority—Public Water Supply System, GF Certificate No. GF–202106170, Williamsport City, Lycoming County, Pa.; Wells 3, 4, 5, 6, 7, 8, and 9, Mosquito Creek, and Hagermans Run; Issue Date: June 17, 2021.
6. Galen Hall Country Club, Inc.—Galen Hall Country Club, GF Certificate No. GF–202106171, South Heidelberg Township, Berks County, Pa.; the Well; Issue Date: June 21, 2021.
7. Gold Bond Building Products, LLC—Milton Paper Plant, GF Certificate No. GF–202106172, White Deer Township, Union County, Pa.; Wells 4, 5, and 6 and consumptive use; Issue Date: June 21, 2021.
8. Country Club of Scranton, GF Certificate No. GF–202106173, South Abington Township, Lackawanna County, Pa.; consumptive use; Issue Date: June 22, 2021.
9. Gary and Robert Mahany—Gary and Robert Mahany Farms, GF Certificate No. GF–202106174, Towns of Hornellsville and Dansville, Steuben County, N.Y.; Canisteo River, Lime Kiln Creek, Manmade Pond 2, and Marsh Ditch; Issue Date: June 22, 2021.

Dated: July 14, 2021.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2021–15264 Filed 7–16–21; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: June 1–30, 2021.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries May be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22 (f) for the time period specified above:

Water Source Approval—Issued Under 18 CFR 806.22(f)

1. Seneca Resources Company, LLC; Pad ID: Watkins 820; ABR–201106011.R2; Chatham Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 14, 2021.
2. Chesapeake Appalachia, L.L.C.; Pad ID: GB; ABR–201106007.R2; Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 14, 2021.
3. BKV Operating, LLC; Pad ID: Kile; ABR–201103026.R2; Washington Township, Wyoming County; Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: June 14, 2021.
4. LPR Energy, LLC; Pad ID: PA Smithmyer Drilling Pad #1; ABR–201101020.R2;

Clearfield Township, Cambria County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: June 15, 2021.

5. BKV Operating, LLC; Pad ID: Johnston 1 Pad; ABR–201106009.R2; Meshoppen Township, Wyoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: June 21, 2021.

6. Chesapeake Appalachia, L.L.C.; Pad ID: IH; ABR–201106014.R2; Stevens Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 21, 2021.

7. Chesapeake Appalachia, L.L.C.; Pad ID: J & J; ABR–201106015.R2; Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 21, 2021.

8. Chesapeake Appalachia, L.L.C.; Pad ID: Knickerbocker; ABR–201106013.R2; Franklin Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 21, 2021.

9. Chesapeake Appalachia, L.L.C.; Pad ID: Mel; ABR–201106012.R2; Franklin Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 21, 2021.

10. Chesapeake Appalachia, L.L.C.; Pad ID: Neal; ABR–201106010.R2; Leroy Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 21, 2021.

11. Repsol Oil & Gas USA, LLC; Pad ID: DORN (02 180) A; ABR–201604003.R1; Hamilton Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: June 21, 2021.

12. Cabot Oil & Gas Corporation; Pad ID: Augustine P1; ABR–201105002.R2; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: June 21, 2021.

13. ARD Operating, LLC; Pad ID: COP Tract 728 Pad G; ABR–201105007.R2; Watson Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 22, 2021.

14. ARD Operating, LLC; Pad ID: COP Tract 728 Pad H; ABR–201105006.R2; Watson Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 22, 2021.

15. Chesapeake Appalachia, L.L.C.; Pad ID: Quail; ABR–201106018.R2; Fox Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 24, 2021.

16. Chesapeake Appalachia, L.L.C.; Pad ID: Wootten; ABR–201106016.R2; Mehoopany Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 24, 2021.

17. Clean Energy Exploration & Production, LLC; Pad ID: Whispering Pines Pad 1; ABR–201606004.R1; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 24, 2021.

18. Chesapeake Appalachia, L.L.C.; Pad ID: Lambs Farm; ABR–201106023.R2; Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 29, 2021.

19. Chesapeake Appalachia, L.L.C.; Pad ID: Nichols; ABR–201106024.R2; Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 29, 2021.

20. Repsol Oil & Gas USA, LLC; Pad ID: ALDERSON (05 011) V; ABR–201104008.R2; Pike Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: June 29, 2021.

21. ARD Operating, LLC; Pad ID: Salt Run Pad A Ext; ABR–202107001; Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 30, 2021.

Approvals By Rule—Issued Under 18 CFR 806.22(f)—Revocation

1. Seneca Resources Company, LLC; Pad ID: Signor 566; ABR–201010054.R2; Charleston Township, Tioga County, Pa.; Revocation Date: June 22, 2021.

2. XTO Energy, Inc.; Pad ID: TLT Unit A; ABR–201107017.R2; Jordan Township, Lycoming County, Pa.; Revocation Date: June 30, 2021.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: July 14, 2021.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2021–15263 Filed 7–16–21; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on August 12, 2021. Due to the COVID–19 situation and the relevant orders in place in the Commission's member jurisdictions, the Commission will hold this hearing telephonically. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects and proposals are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for September 17, 2021, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects and proposals. The deadline for the submission of written comments is August 23, 2021.

DATES: The public hearing will convene on August 12, 2021, at 6:30 p.m. The public hearing will end at 9:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is August 23, 2021.

ADDRESSES: This hearing will be held by telephone conference rather than at a physical location. Conference Call # 1–877–668–4493 (Toll-Free number)/ Access code: 177 232 3507.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423; fax: (717) 238–2436.

Information concerning the applications for these projects is available at the Commission's Water Application and Approval Viewer at *https://www.srbc.net/waav.* Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at *www.srbc.net/regulatory/policies-guidance/docs/access-to-records-policy-2009–02.pdf.*

SUPPLEMENTARY INFORMATION:

The public hearing will cover the following projects:

Projects Scheduled for Action:

1. *Project Sponsor and Facility:* Aqua-ETC Water Solutions, LLC (West Branch Susquehanna River), Piatt Township, Lycoming County, Pa. Modification to update flow protection rates to be in accordance with current Low Flow Protection Policy No. 2012–01 (Docket No. 20120302).

2. *Project Sponsor and Facility:* ARD Operating, LLC (Loyalsock Creek), Hillsgrove Township, Sullivan County, Pa. Application for surface water withdrawal of up to 1.700 mgd (peak day).

3. *Project Sponsor and Facility:* Blossburg Municipal Authority, Hamilton Township, Tioga County, Pa. Application for renewal of groundwater withdrawal of up to 0.245 mgd (30-day average) from Well 1 (Docket No. 19890105).

4. *Project Sponsor and Facility:* East Hempfield Township Municipal Authority, East Hempfield Township, Lancaster County, Pa. Applications for renewal of groundwater withdrawals (30-day averages) of up to 0.353 mgd from Well 6, 0.145 mgd from Well 7, 1.447 mgd from Well 8, and 1.660 mgd from Well 11, and Commission-initiated modification to Docket No. 20120906, which approves withdrawals from Wells 1, 2, 3, 4, and 5 and Spring S–1 (Docket Nos. 19870306, 19890503, 19930101, and 20120906).

5. *Project Sponsor:* Glenn O. Hawbaker, Inc. Project Facility: Naginey Facility, Armagh Township, Mifflin County, Pa. Applications for groundwater withdrawal of up to 0.300 mgd (30-day average) from the Quarry Pit Pond and consumptive use of up to 0.310 mgd (peak day).

6. *Project Sponsor and Facility:* Village of Greene, Chenango County,

N.Y. Application for renewal of groundwater withdrawal of up to 0.181 mgd (30-day average) from Well 3 (Docket No. 19970303).

7. *Project Sponsor:* New York State Office of Parks, Recreation and Historic Preservation. Project Facility: Indian Hills State Golf Course (Irrigation Pond), Towns of Erwin and Lindley, Steuben County, N.Y. Applications (30-day averages) for surface water withdrawal of up to 0.300 mgd and consumptive use of up to 0.300 mgd.

8. *Project Sponsor and Facility:* Pennsylvania State University, Ferguson Township, Centre County, Pa. Applications for renewal of groundwater withdrawal of up to 0.960 mgd (30-day average) from Well UN–37 and consumptive use of up to 1.620 mgd (peak day) (Docket No. 19890106–1).

9. *Project Sponsor and Facility:* Selinsgrove Municipal Authority, Borough of Selinsgrove and Penn Township, Snyder County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.465 mgd from Well 3 and renewal of up to 0.707 mgd from Well 4 (Docket No. 19910904).

10. *Project Sponsor:* SUEZ Water Pennsylvania, Inc. Project Facility: Newberry Operation, Newberry Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.043 mgd (30-day average) from the Eden Well (Docket No. 19910102).

11. *Project Sponsor and Facility:* Transcontinental Gas Pipe Line Company, LLC (Susquehanna River), Wyoming Borough, Luzerne County, Pa. Applications (peak day) for surface water withdrawal of up to 5.760 mgd and consumptive use of up to 0.100 mgd.

Commission-Initiated Project Approval Modification:

1. *Project Sponsor:* Knouse Foods Cooperative, Inc. Project Facility: Gardners Plant, Tyrone Township, Adams County, Pa. Conforming the grandfathered quantity with the forthcoming determination for a groundwater withdrawal of up to 0.183 mgd (30-day average) from Wells 3, 5, 6, 8, and 10 (Docket No. 20041211).

Opportunity To Appear and Comment

Interested parties may call into the hearing to offer comments to the Commission on any business listed above required to be the subject of a public hearing. Given the telephonic nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by emailing Jason Oyler at *joyler@srbc.net* prior to the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Access to the hearing via telephone will begin at 6:15 p.m. Guidelines for the public hearing are posted on the Commission's website, *www.srbc.net,* prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110–1788, or submitted electronically through *https://www.srbc.net/regulatory/public-comment/.* Comments mailed or electronically submitted must be received by the Commission on or before August 23, 2021, to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: July 14, 2021.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2021–15262 Filed 7–16–21; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0168]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Agricultural Aircraft Operations (Formerly "Agricultural Aircraft Operator Certificate Application")

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 1, 2021. The collection involves the submission of FAA Form 8710–3 for the certification process of agricultural aircraft operators, and other reporting and recordkeeping activities required of agricultural aircraft operators. The information to be collected is necessary to evaluate the applicants' qualifications for certification. This collection also involves plans for operations over congested areas and recordkeeping requirements for agricultural aircraft operators. In addition, the FAA is changing the name of this collection to more accurately reflect its scope.

DATES: Written comments should be submitted by August 18, 2021.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Raymond Plessinger by email at: *raymond.plessinger@faa.gov;* phone: 717–443–7296.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0049.

Title: Agricultural Aircraft Operations.

Form Numbers: FAA Form 8710–3.

Type of Review: Renewal.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 1, 2021 (86 FR 12074). This collection involves the application for issuance or amendment of a 14 CFR part 137 Agricultural Aircraft Operator Certificate. Application for an original certificate or amendment of a certificate issued under 14 CFR part 137 is made on a form, and in a manner prescribed by the Administrator. The FAA form 8710–3 may be obtained from an FAA Flight Standards District Office, or

online at *https://www.faa.gov/forms/index.cfm/go/document.information/documentID/1020386.* The completed application is sent to the district office that has jurisdiction over the area in which the applicant's home base of operation is located.

The information collected includes: Type of application, operator's name/DBA, telephone number, mailing address, physical address of the principal base of operations, chief pilot/designee name, airman certificate grade and number, and aircraft make/model and registration numbers to be used.

This information collection also includes safety mitigation plans; plans for operations over congested areas; and recordkeeping requirements.

Respondents: There are 1,763 active agricultural aircraft operators. Approximately 50 operators are certificated annually, and approximately 50 certificates are surrendered or revoked.

Frequency: New applications when needed; current 14 CFR part 137 certificate do not expire, but may need to be amended on occasion.

Estimated Average Burden per Response: The FAA anticipates 100 applications for new certificates, at 0.5 hours each; 100 applications for amendment, at 0.5 hours each; 100 petitions for exemption, at 0.5 hours each; and 350 submissions of plans for operations over congested areas, at 0.5 hours each. The total reporting burden is thus 650 responses and 325 hours.

All operators certificated under part 137 are required to maintain certain records for a minimum of 12 months. The FAA estimates this recordkeeping burden at 4.5 hours per operator. Assuming a universe of 1,763 operators, the annual recordkeeping burden is 7,934 hours.

Estimated Total Annual Burden: 325 reporting hours + 7,934 recordkeeping hours = 8,259 total hours.

Issued in Washington, DC, on July 14, 2021.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2021–15235 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Federal Aviation Administration Aviation Rulemaking Advisory Committee; Meeting

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

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: This notice announces a meeting of the ARAC.

DATES: The meeting will be held on Thursday, September 16, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Daylight Time.

Requests to attend the meeting must be received by Tuesday, August 31, 2021.

Requests for accommodations to a disability must be received by Tuesday, August 31, 2021.

Requests to submit written materials to be reviewed during the meeting must be received no later than Tuesday, August 31, 2021.

ADDRESSES: The meeting will be held virtually. Members of the public who wish to observe the meeting must RSVP by emailing *9-awa-arac@faa.gov.* General committee information including copies of the meeting minutes will be available on the FAA Committee website at *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/.*

FOR FURTHER INFORMATION CONTACT: Lakisha Pearson, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–4191; email *9-awa-arac@faa.gov.* Any committee-related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

ARAC was created under the Federal Advisory Committee Act (FACA), in accordance with Title 5 of the United States Code (5 U.S.C. App. 2) to provide advice and recommendations to the FAA concerning rulemaking activities, such as aircraft operations, airman and air agency certification, airworthiness standards and certification, airports, maintenance, noise, and training.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Status Report from the FAA
- Status Updates:
  - Active Working Groups
  - Transport Airplane and Engine (TAE) Subcommittee
- Recommendation Reports
- Any Other Business

The detailed agenda will be posted on the FAA Committee website address listed in the **ADDRESSES** section at least one week in advance of the meeting.

III. Public Participation

This virtual meeting will be open to the public on a first-come, first-served basis. Members of the public who wish to attend are asked to register via email by submitting the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation, to the email listed in the **ADDRESSES** section. When registration is confirmed, registrants will be provided the virtual meeting information/teleconference call-in number and passcode. Callers are responsible for paying associated long-distance charges.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

The FAA is not accepting oral presentations at this meeting due to time constraints. Any member of the public may present a written statement to the committee at any time. The public may present written statements to ARAC by providing a copy to the Designated Federal Officer via the email listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC.

Timothy R. Adams,

Acting Executive Director Office of Rulemaking.

[FR Doc. 2021–15277 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies

that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried-out by TxDOT pursuant to an assignment agreement executed by FHWA and TxDOT. The actions relate to various proposed highway projects in the State of Texas. These actions grant licenses, permits, and approvals for the projects.

DATES: A claim seeking judicial review of TxDOT and Federal agency actions on the highway projects will be barred unless the claim is filed on or before the deadline. For the projects listed below, the deadline is 150 days from the date of publication. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Carlos Swonke, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2734; email: *carlos.swonke@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) issued in connection with the projects and in other key project documents. The CE, EA, or EIS and other key documents for the listed projects are available by contacting TxDOT at the address provided above.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377] (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The projects subject to this notice are:

1. FM 1925, from FM 907 to Sharp Road, Hidalgo County, Texas. The purpose of the project is to improve safety and connectivity by reconstructing and widening FM 1925 from FM 907 to Sharp Road from a two-lane roadway with eight-foot shoulders to a five-lane roadway (includes continuous center left turn lane) with 10-foot shoulders for a length of approximately 1.6 miles. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on March 2, 2021 and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Pharr District Office at 600 W. Expressway 83, Pharr, TX 78577; telephone: (956) 702–6100.

2. FM 725 from Zipp Road to County Line Road in Guadalupe County, Texas. The project includes an additional travel lane in each direction and a combination of raised medians and center turn lanes, left and right turn lanes at various points along the project limits, a shared use path along the south side of the road, and a sidewalk along the north side of the roadway. The project is approximately 1.65 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on March 19, 2021, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT San Antonio District Office at 4615 NW Loop 410, San Antonio, TX 78229; telephone: (210) 615–5839.

3. Merritt Road from Pleasant Valley Drive to North of Sachse Road in Dallas County, Texas. The proposed project would widen Merritt Road to a four-lane divided roadway consisting of 12-foot wide inside travel lane and a 14-foot wide shared use lane in each direction. A six-foot wide sidewalk would be constructed along the east side of the roadway and a 12-foot shared-use path would be constructed along the west side. The total project length is approximately 1.6 miles. The purpose of the proposed project is to improve mobility, improve roadway safety characteristics, and better manage traffic operations on Merritt Road. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on April 19, 2021, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting TxDOT at the

address provided above or the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320–6200.

4. FM 523 from SH 332 to FM 1495, Brazoria County, Texas. The project proposes to reconstruct and widen FM 523 within the described limits from two 11-foot lanes to four 12-foot lanes (two lanes in each direction) with a continuous 16-foot center turn lane and 10-foot shoulders. The project is located between the cities of Freeport and Oyster Creek in southeast Brazoria County. The project would be 1.4 miles in length and would require no new right of way, although 0.09 acre of temporary construction easements would be required at the intersection of FM 523 and Dow Levee Road. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on April 26, 2021, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Houston District Office at 7600 Washington Avenue, Houston, TX 77007; telephone: (713) 802–5076.

5. US 90 from State Highway 211 to Loop 13, Bexar County, Texas. The project will widen the existing roadway from a four-lane divided roadway with intermittent frontage roads to a six-lane expressway with one-way continuous frontage roads in each direction. The project is approximately 11.5 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on March 26, 2021, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or TxDOT San Antonio District Office at 4615 NW Loop 410, San Antonio, TX 78229; telephone: (210) 615–5839.

6. Kenney Fort Boulevard (Blvd.) from Forest Creek Drive to State Highway (SH) 45, Williamson County, Texas. The project will extend Kenney Fort Blvd. on new location from Forest Creek Drive south to SH 45. The project will construct a limited-access 6-lane major arterial consisting of three 12-foot travel lanes in each direction with a continuous sidewalk and shared-use path. The project is approximately 1.5 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on May 21, 2021, and other documents in the TxDOT project file. The EA, FONSI, and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Austin District Office at 7901 North I–35, Austin, TX 78753; telephone: 512–832–7000.

Authority: 23 U.S.C. 139(l)(1).

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2021–15181 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0008]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from eight individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before August 18, 2021.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2021–0008 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–2021–0008, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2021–0008), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/docket?D=FMCSA-2021–0008.* Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0008, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The eight individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

On July 16, 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (57 FR 31458). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of § 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely in intrastate commerce with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at *www.regulations.gov/docket?D=FMCSA–1998–3637.*

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively.[1] The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Qualifications of Applicants

Karl C. Christenson

Mr. Christenson, 36, has corneal scarring in his right eye due to a traumatic incident in 2018. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2021, his ophthalmologist stated, ''It is in my medical opinion that Karl Christenson, although he is limited to 20/200 vision in his right eye, does appear to have sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Christenson reported that he has driven tractor-trailer combinations for 7 years, accumulating 700,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James G. Cothren

Mr. Cothren, 54, has had a prosthetic in his right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2021, his optometrist stated, ''In my opinion, this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Cothren reported that he has driven tractor-trailer combinations for 25 years, accumulating 2.5 million miles. He holds a Class A CDL from Georgia. His

[1] A thorough discussion of this issue may be found in a FHWA final rule published in the **Federal Register** on March 26, 1996 and available on the internet at *https://www.govinfo.gov/content/pkg/FR-1996-03-26/pdf/96-7226.pdf.*

driving record for the last 3 years shows no crashes and one conviction for speeding in a CMV; he exceeded the speed limit by 17 mph.

Gregory C. Grubb

Mr. Grubb, 30, has had refractive amblyopia in his left eye since chidlhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2021, his ophthalmologist stated, ''In my medical opinion, Greg has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Grubb reported that he has driven tractor-trailer combinations for 8 years, accumulating 416,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and two convictions for moving violations in a CMV; failure to obey the instructions of an applicable official traffic-control device, and improper driving.

Ernest Herrera

Mr. Herrera, 54, has had a retinal detachment in his left eye since 2013. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2020, his ophthalmologist stated, ''I can express that it is my opinion, that a person with a 20/20 or 20/25+2 Snellen acuity measurements in one eye, normal color perception with both eyes open, a visual field of 120 horizontal degrees in each eye, and that such person has made a living by legally operating a commercial vehicle in the State of Texas for the last 5 years, would possess sufficient vision necessary to operating a commercial vehicle.'' Mr. Herrera reported that he has driven straight trucks for 35 years, accumulating 350,000 miles, and tractor-trailer combinations for 21 years, accumulating 2.625 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; over gross weight.

Leonard G. Hill

Mr. Hill, 49, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2021, his optometrist stated, ''In my medical opinion, this patient has sufficient vision to perform normal driving tasks required to operate a commercial vehicle.'' Mr. Hill reported that he has driven straight trucks for 16 years, accumulating 2.2 million miles, and tractor-trailer combinations for 16 years, accumulating 2.2 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Saul Quintero

Mr. Quintero, 50, has a prosthetic right eye due to a traumatic incident in 2017. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2021, his ophthalmologist stated, ''Mr. Quintero has 20/20 vision on the left eye and normal visual field which should qualify him to operate a commercial vehicle.'' Mr. Quintero reported that he has driven tractor-trailer combinations for 16 years, accumulating 2.16 million miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

Mersad Redzovic

Mr. Redzovic, 26, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2021, his optometrist stated, ''His vision is sufficient to perform driving tasks required to operate a commercial vehicle.'' Mr. Redzovic reported that he has driven straight trucks for 2 years, accumulating 98,000 miles, and tractor-trailer combinations for 3 years, accumulating 170,500 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Tyler J. Worthen

Mr. Worthen, 35, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2021, his optometrist stated, ''In my medical opinion, Mr. Worthen has sufficient vision to perform the tasks required to operate a commercial vehicle.'' Mr. Worthen reported that he has driven straight trucks for 6 years, accumulating 156,000 miles, and buses for 2 years, accumulating 15,600 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–15258 Filed 7–16–21; 8:45 am]

BILLING CODE 4910–EX–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1752]

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA26

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2021–0011]

Proposed Interagency Guidance on Third-Party Relationships: Risk Management

AGENCY: The Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC).

ACTION: Proposed interagency guidance and request for comment.

SUMMARY: The Board, FDIC, and OCC (together, the agencies) invite comment on proposed guidance on managing risks associated with third-party relationships. The proposed guidance would offer a framework based on sound risk management principles for banking organizations to consider in developing risk management practices for all stages in the life cycle of third-party relationships that takes into account the level of risk, complexity, and size of the banking organization and the nature of the third-party relationship. The proposed guidance sets forth considerations with respect to the management of risks arising from third-party relationships. The proposed guidance would replace each agency's existing guidance on this topic and would be directed to all banking organizations supervised by the agencies.

DATES: Comments must be received no later than September 17, 2021.

ADDRESSES: Interested parties are encouraged to submit written comments to any or all agencies listed below. The agencies will share comments with each other. Comments should be directed to:

Board: When submitting comments, please consider submitting your

comments by email or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. OP–1752, by any of the following methods:

• *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/RevisedRegs.cfm.*

• *Email: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.

• *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at: *http://www.federalreserve.gov/generalinfo/foia/RevisedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments also may be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments, identified by FDIC RIN 3064–ZA26, by any of the following methods:

• *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow instructions for submitting comments on the agency website.

• *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments-RIN 3064–ZA26, Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

• *Email: comments@FDIC.gov.* Comments submitted must include ''FDIC RIN 3064–ZA26'' on the subject line of the message.

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Public Inspection:* All comments received will be posted without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/,* including any personal information provided.

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title ''Proposed Interagency Guidance on Third-Party Relationships: Risk Management'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

• *Federal eRulemaking Portal—Regulations.gov:* Go to *https://regulations.gov/.* Enter ''Docket ID OCC–2021–0011'' in the Search Box and click ''Search.'' Public comments can be submitted via the ''Comment'' box below the displayed document information or by clicking on the document title and then clicking the ''Comment'' box on the top-left side of the screen. For help with submitting effective comments please click on ''Commenter's Checklist.'' For assistance with the *Regulations.gov* site, please call (877) 378–5457 (toll free) or (703) 454–9859 Monday–Friday, 9 a.m.–5 p.m. ET or email *regulations@erulemakinghelpdesk.com.*

• *Mail:* Chief Counsel's Office, Attention: Comment Processing, 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.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2021–0011'' in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website 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.

You may review comments and other related materials that pertain to this action by the following method:

• *Viewing Comments Electronically—Regulations.gov:* Go to *https://regulations.gov/.* Enter ''Docket ID OCC–2021–0011'' in the Search Box and click ''Search.'' Click on the ''Documents'' tab and then the document's title. After clicking the document's title, click the ''Browse Comments'' tab. Comments can be viewed and filtered by clicking on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Results'' options on the left side of the screen. Supporting materials can be viewed by clicking on the ''Documents'' tab and filtered by clicking on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Documents Results'' options on the left side of the screen.'' For assistance with the *Regulations.gov* site, please call (877) 378–5457 (toll free) or (703) 454–9859 Monday–Friday, 9 a.m.–5 p.m. ET or email *regulations@erulemakinghelpdesk.com.*

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

FOR FURTHER INFORMATION CONTACT:

Board: Nida Davis, Associate Director, (202) 872–4981; Timothy Geishecker, Lead Financial Institution and Policy Analyst, (202) 475–6353, Division of Supervision and Regulation; Jeremy Hochberg, Managing Counsel, (202) 452–6496; Matthew Dukes, Counsel, (202) 973–5096, Division of Consumer and Community Affairs; Claudia Von Pervieux, Senior Counsel, (202) 452–2552; Evans Muzere, Counsel, (202) 452–2621; Alyssa O'Connor, Senior Attorney, (202) 452–3886, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

FDIC: Thomas F. Lyons, Corporate Expert in Examination Policy, *TLyons@fdic.gov,* (202) 898–6850); Judy E. Gross, Senior Policy Analyst, *JuGross@fdic.gov,* (202) 898–7047, Policy & Program Development, Division of Risk Management Supervision; Paul Robin, Chief, *probin@fdic.gov,* (202) 898–6818, Supervisory Policy Section, Division of Depositor and Consumer Protection; Marguerite Sagatelian, Senior Special Counsel, *msagatelian@fdic.gov,* (202) 898–6690, Supervision, Legislation & Enforcement Branch, Legal Division, Federal Deposit Insurance Corporation; 550 17th Street NW, Washington, DC 20429.

OCC: Kevin Greenfield, Deputy Comptroller for Operational Risk Division, Lazaro Barreiro, Director for Governance and Operational Risk Policy, Emily Doran, Governance and Operational Risk Policy Analyst, Stuart Hoffman, Governance and Operational Risk Policy Analyst, Operational Risk Policy Division, (202) 649–6550; or Tad Thompson, Counsel or Eden Gray, Assistant Director, Chief Counsel's Office, (202) 649–5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Banking organizations routinely rely on third parties for a range of products, services, and activities (herein activities). These may include core bank processing, information technology services, accounting, compliance, human resources, and loan servicing. A banking organization may also establish third-party relationships to offer products and services to improve customers' access to and the functionality of banking services, such as mobile payments, credit-scoring systems, and customer point-of-sale payments.

In other instances, a banking organization may make its banking services available to customers through the third party's platform. Competition, advances in technology, and innovation in the banking industry contribute to banking organizations' increasing use of third parties to perform business functions, deliver support services, facilitate providing new products and services, or facilitate providing existing products and services in new ways.

The use of third parties can offer banking organizations significant advantages, such as quicker and more efficient access to new technologies, human capital, delivery channels, products, services, and markets. To address these developments, many banking organizations, including smaller and less complex banking organizations, have adopted risk management practices commensurate with the level of risk and complexity of their third-party relationships. Whether a banking organization conducts activities directly or through a third party, the banking organization must conduct the activities in a safe and sound manner and consistent with applicable laws and regulations, including those designed to protect consumers.

The use of third parties by banking organizations does not remove the need for sound risk management. On the contrary, the use of third parties may present elevated risks to banking organizations and their customers. Banking organizations' expanded use of third parties, especially those with new or innovative technologies, may also add complexity, including in managing consumer compliance risks, and otherwise heighten risk management considerations. A prudent banking organization appropriately manages its third-party relationships, including addressing consumer protection, information security, and other operational risks. The proposed supervisory guidance [1] is intended to assist banking organizations in identifying and addressing these risks and in complying with applicable statutes and regulations.[2]

The Board, FDIC, and OCC each have issued guidance for their respective supervised banking organizations addressing third-party relationships and appropriate risk management practices: The Board's 2013 guidance,[3] the FDIC's 2008 guidance,[4] and the OCC's 2013 guidance and its 2020 FAQs.[5] The agencies seek to promote consistency in their third-party risk management guidance and to clearly articulate risk-based principles on third-party risk management. Accordingly, the agencies are jointly seeking comment on the proposed guidance.

The proposed guidance is based on the OCC's existing third-party risk management guidance from 2013 and includes changes to reflect the extension of the scope of applicability to banking organizations supervised by all three federal banking agencies. The agencies are including the OCC's 2020 FAQs, released in March 2020, as an exhibit, separate from the proposed guidance. The OCC issued the 2020 FAQs to clarify the OCC's 2013 third-party risk management guidance and discuss evolving industry topics. The agencies seek public comment on the extent to which the concepts discussed in the OCC's 2020 FAQs should be incorporated into the final version of the guidance. More specifically, the agencies seek public comment on whether: (1) Any of those concepts should be incorporated into the final guidance; and (2) there are additional concepts that would be helpful to include.

II. Overview of Proposed Guidance on Third-Party Relationships

The proposed guidance provides a framework based on sound risk management principles that banking organizations may use to address the risks associated with third-party relationships. The proposed guidance describes third-party relationships as business arrangements between a banking organization and another entity, by contract or otherwise. The proposed guidance stresses the importance of a banking organization appropriately managing and evaluating the risks associated with each third-party relationship. The proposed guidance states that a banking organization's use of third parties does not diminish its responsibility to perform an activity in a safe and sound manner and in compliance with applicable laws and regulations. The proposed guidance indicates that banking organizations should adopt third-party risk management processes that are commensurate with the identified level of risk and complexity from the third-party relationships, and with the organizational structure of each banking organization. The proposed guidance is intended for all third-party relationships and is especially important for relationships that a banking organization relies on to a significant extent, relationships that entail greater risk and complexity, and relationships that involve critical activities as described in the proposed guidance.

The proposed guidance describes the third-party risk management life cycle and identifies principles applicable to each stage of the life cycle, including: (1) Developing a plan that outlines the banking organization's strategy, identifies the inherent risks of the activity with the third party, and details how the banking organization will

[1] Supervisory guidance outlines the agencies' supervisory practices or priorities and articulates the agencies' general views regarding appropriate practices for a given subject area. The agencies have each adopted regulations setting forth Statements Clarifying the Role of Supervisory Guidance as guidance. *See* 12 CFR part 4, Appendix A to Subpart F (OCC); 12 CFR part 262, Appendix A (Board); 12 CFR part 302, Appendix A (FDIC).

[2] These include the Interagency Guidelines Establishing Standards for Safety and Soundness, and the Interagency Guidelines Establishing Information Security Standards, which were adopted pursuant to the procedures of section 39 of the Federal Deposit Insurance Act and section 505 of the Graham Leach Bliley Act, respectively.

[3] SR Letter 13–19/CA Letter 13–21, ''Guidance on Managing Outsourcing Risk'' (December 5, 2013, updated February 26, 2021).

[4] FIL–44–2008, ''Guidance for Managing Third-Party Risk'' (June 6, 2008).

[5] OCC Bulletin 2013–29, ''Third-Party Relationships: Risk Management Guidance'' and OCC Bulletin 2020–10, ''Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013–29'' The OCC also issued foreign-based third-party guidance, OCC Bulletin 2002–16, ''Bank Use of Foreign-Based Third-Party Service Providers: Risk Management Guidance,'' which supplements this proposed guidance.

identify, assess, select, and oversee the third party; (2) performing proper due diligence in selecting a third party; (3) negotiating written contracts that articulate the rights and responsibilities of all parties; (4) having the board of directors and management oversee the banking organization's risk management processes, maintaining documentation and reporting for oversight accountability, and engaging in independent reviews; (5) conducting ongoing monitoring of the third party's activities and performance; and (6) developing contingency plans for terminating the relationship in an effective manner.

III. Request for Comment

The agencies invite comment on all aspects of the proposed guidance and the OCC's 2020 FAQs, including responses to the following questions.

A. General

1. To what extent does the guidance provide sufficient utility, relevance, comprehensiveness, and clarity for banking organizations with different risk profiles and organizational structures? In what areas should the level of detail be increased or reduced? In particular, to what extent is the level of detail in the guidance's examples helpful for banking organizations as they design and evaluate their third-party risk-management practices?

2. What other aspects of third-party relationships, if any, should the guidance consider?

B. Scope

As noted above, a third-party relationship is ''any business arrangement between a banking organization and another entity, by contract or otherwise.'' The term ''business arrangement'' is meant to be interpreted broadly to enable banking organizations to identify all third-party relationships for which the proposed guidance is relevant. Neither a written contract nor a monetary exchange is necessary to establish a business arrangement. While determinations of business arrangements may vary depending on the facts and circumstances, third-party business arrangements generally exclude a banking organization's customers. The proposed guidance provides examples of third-party relationships, including use of independent consultants, networking arrangements, merchant payment processing services, services provided by affiliates and subsidiaries, joint ventures, and other business arrangements in which a banking organization has an ongoing relationship or may have responsibility for the associated records. The proposed guidance also describes additional risk management considerations when a banking organization entertains the use of foreign-based third parties.

3. In what ways, if any, could the proposed description of third-party relationships be clearer?

4. To what extent does the discussion of ''business arrangement'' in the proposed guidance provide sufficient clarity to permit banking organizations to identify those arrangements for which the guidance is appropriate? What change or additional clarification, if any, would be helpful?

5. What changes or additional clarification, if any, would be helpful regarding the risks associated with engaging with foreign-based third parties?

C. Tailored Approach to Third-Party Risk Management

This guidance offers a framework based on sound risk management principles that banking organizations may use in developing practices appropriate for all stages in the risk management life cycle of a third-party relationship based on the level of risk, complexity, and size of the banking organization and the nature of the third-party relationship. Some smaller and less complex banking organizations have expressed concern that they are expected to institute third-party risk management practices that they perceive to be more appropriate for larger and more complex banking organizations. The proposed guidance is intended to provide principles that are useful for a banking organization of any size or complexity and uses the concept of critical activities to help banking organizations scale the nature of their risk management activities. Banking organizations, including smaller and less complex banking organizations, should adopt risk management practices commensurate with the level of risk and complexity of their third-party relationships and the risk and complexity of the banking organization's operations.

6. How could the proposed guidance better help a banking organization appropriately scale its third-party risk management practices?

7. In what ways, if any, could the proposed guidance be revised to better address challenges a banking organization may face in negotiating some third-party contracts?

8. In what ways could the proposed description of critical activities be clarified or improved?

D. Third-Party Relationships

Banking organizations are engaging in different types of relationships [6] with third parties, including technology companies, to serve a range of purposes. Some banking organizations have business arrangements with third parties to offer competitive and innovative financial products and services that otherwise would be difficult, cost-prohibitive, or time-consuming to develop in-house. Other banking organizations have relationships with third parties to enhance their operational and compliance infrastructure, including for areas such as fraud detection, anti-money laundering, and customer service. The agencies recognize the prevalence of the range of relationships between banking organizations and third parties.

9. What additional information, if any, could the proposed guidance provide for banking organizations to consider when managing risks related to different types of business arrangements with third parties?

10. What revisions to the proposed guidance, if any, would better assist banking organizations in assessing third-party risk as technologies evolve?

Third parties and banking organizations enter into a wide variety of business arrangements, including ones in which the banking organizations make parts of their information systems available to a third party that will directly engage with the end customer. These business arrangements may involve unique or additional risks relative to traditional third-party business arrangements.

11. What additional information, if any, could the proposed guidance provide to banking organizations in managing the risk associated with third-party platforms that directly engage with end customers?

12. What risk management practices do banking organizations find most effective in managing business arrangements in which a third party engages in activities for which there are regulatory compliance requirements? How could the guidance further assist banking organizations in appropriately managing the compliance risks of these business arrangements?

E. Due Diligence and Collaborative Arrangements

The proposed guidance notes that banking organizations may collaborate when they use the same third party,

[6] These relationships could include partnerships, joint ventures, or other types of formal legal structures or informal arrangements.

which can improve risk management and lower the costs among such banking organizations. For example, banking organizations may be able to collaborate when performing due diligence, negotiating contracts, and performing ongoing monitoring.[7] Collaboration may facilitate banking organizations' due diligence of particular third-party relationships by sharing expertise and resources. Third-party assessment service companies have been formed to help banking organizations with third-party risk management, including due diligence. Collaboration can also result in increased negotiating power and lower costs to banking organizations not only during contract negotiations but also for ongoing monitoring. Each banking organization, however, is ultimately accountable for managing the risks of its own third-party business arrangements.

13. In what ways, if any, could the discussion of shared due diligence in the proposed guidance provide better clarity to banking organizations regarding third-party due diligence activities?

14. In what ways, if any, could the proposed guidance further address due diligence options, including those that may be more cost effective? In what ways, if any, could the proposed guidance provide better clarity to banking organizations conducting due diligence, including working with utilities, consortiums, or standard-setting organizations?

F. Subcontractors

Third-party business arrangements may involve subcontracting arrangements, which can create a chain of service providers for a banking organization. The absence of a direct relationship with a subcontractor can affect the banking organization's ability to assess and control risks inherent in parts of the supply chain. In addition, the risks inherent in such a chain may be heightened when a banking organization uses third parties for critical activities.

The proposed guidance addresses due diligence and contract negotiations in dealing with a third party's subcontractors. Several sections of the proposed guidance, such as the sections titled ''Management of Information Systems,'' ''Reliance on Subcontractors,'' and ''Conflicting Contractual Arrangements with Other Parties,'' detail possible procedures for handling subcontractors as part of due diligence and ongoing monitoring. Similarly, several sections of the proposed guidance provide information on possible procedures for addressing the treatment of subcontractors in contract negotiation, including the sections on ''Responsibilities for Providing, Receiving, and Retaining Information,'' ''Confidentiality and Integrity,'' and ''Subcontracting.''

15. How could the proposed guidance be enhanced to provide more clarity on conducting due diligence for subcontractor relationships? To what extent would changing the terms used in explaining matters involving subcontractors (for example, fourth parties) enhance the understandability and effectiveness of this proposed guidance? What other practices or principles regarding subcontractors should be addressed in the proposed guidance?

16. What factors should a banking organization consider in determining the types of subcontracting it is comfortable accepting in a third-party relationship? What additional factors are relevant when the relationship involves a critical activity?

G. Information Security

The proposed guidance provides that a banking organization should, commensurate with its risk profile and consistent with safety and soundness principles and applicable laws and regulations, assess the information security program of third parties, including identifying, assessing, and mitigating known and emerging threats and vulnerabilities. Banking organizations with limited resources for security often depend on support from third parties or on security tools provided by third parties to assess information security risks.

17. What additional information should the proposed guidance provide regarding a banking organization's assessment of a third party's information security and regarding information security risks involved with engaging a third party?

H. OCC's 2020 FAQs

The agencies are seeking comment on the extent to which the concepts included in the OCC's 2020 FAQs should be incorporated into the final version of the guidance.

18. To what extent should the concepts discussed in the OCC's 2020 FAQs be incorporated into the guidance? What would be the best way to incorporate the concepts?

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The proposed guidance does not revise any existing, or create any new, information collections pursuant to the PRA. Rather, any reporting, recordkeeping, or disclosure activities mentioned in the proposed guidance are usual and customary and should occur in the normal course of business as defined in the PRA.[8] Consequently, no submissions will be made to the OMB for review. The agencies request comment on the conclusion that the proposed guidance does not create a new or revise and existing information collections.

IV. Text of Proposed Guidance on Third-Party Relationships

A. Summary

This guidance offers a framework based on sound risk management principles that banking organizations supervised by the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (together, the agencies)[9] may use when assessing and managing risks associated with third-party relationships. A third-party relationship is any business arrangement between a banking organization and another entity, by contract or otherwise.[10] A third-party relationship may exist despite a lack of a contract or remuneration. Third-party relationships can include relationships with entities such as vendors, financial technology (fintech) companies, affiliates, and the banking organization's holding company. While a

[7] Any collaborative activities among banks must comply with antitrust laws. Refer to the Federal Trade Commission and U.S. Department of Justice's ''Antitrust Guidelines for Collaborations Among Competitors,'' *https://www.ftc.gov/sites/default/files/documents/public_events/joint-venture-hearings-antitrust-guidelines-collaboration-among-competitors/ftcdojguidelines-2.pdf* (April 2000).

[8] 5 CFR 1320.3(b)(2).

[9] See the definition of ''appropriate Federal banking agency'' in section 3(q) of the Federal Deposit Insurance Act for a list of banking organizations supervised by each agency. 12 U.S.C. 1813(q).

[10] Third-party relationships include activities that involve outsourced products and services, use of independent consultants, networking arrangements, merchant payment processing services, services provided by affiliates and subsidiaries, joint ventures, and other business arrangements where a banking organization has an ongoing relationship or may have responsibility for the associated records. Affiliate relationships are also subject to sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1)) as implemented in Regulation W (12 CFR part 223).

determination of whether a banking organization's relationship constitutes a business arrangement may vary depending on the facts and circumstances, third-party business arrangements generally exclude a bank's customer relationships.

Use of third parties can reduce management's direct control of activities and may introduce new risks or increase existing risks, such as operational, compliance, reputation, strategic, and credit risks and the interrelationship of these risks. Increased risk often arises from greater complexity, ineffective risk management by a banking organization, and inferior performance by the third party.

Banking organizations should have effective risk management practices whether the banking organization performs an activity in-house or through a third party. A banking organization's use of third parties does not diminish the respective responsibilities of its board of directors to provide oversight of senior management to perform the activity in a safe and sound manner and in compliance with applicable laws and regulations, including those related to consumer protection.[11]

B. Background

The agencies seek to promote consistent third-party risk management guidance, better address use of, and services provided by, third parties, and more clearly articulate risk-based principles on third-party relationship risk management. The use of third parties can offer banking organizations significant advantages, such as quicker and more efficient access to new technologies, human capital, delivery channels, products, services, and markets. As the banking industry becomes more complex and technologically driven, banking organizations are forming more numerous and more complex relationships with other entities to remain competitive, expand operations, and help meet customer needs. A banking organization can be exposed to substantial financial loss if it fails to manage appropriately the risks associated with third-party relationships. Additionally, a banking organization may be exposed to concentration risk if it is overly reliant on a particular third-party service provider.

Whether activities are performed internally or outsourced to a third party, a banking organization is responsible for ensuring that activities are performed in a safe and sound manner and in compliance with applicable laws and regulations. It is therefore important for a banking organization to identify, assess, monitor, and control the risks associated with the use of third parties and the criticality of services being provided.

C. Risk Management

A banking organization's third-party risk management program should be commensurate with its size, complexity, and risk profile as well as with the level of risk and number of the banking organization's third-party relationships.[12] Not all relationships present the same level of risk to a banking organization. As part of sound risk management, banking organizations engage in more comprehensive and rigorous oversight and management of third-party relationships that support ''critical activities.'' ''Critical activities'' are significant bank functions[13] or other activities that:

- Could cause a banking organization to face significant risk if the third party fails to meet expectations;
- could have significant customer impacts;
- require significant investment in resources to implement the third-party relationship and manage the risk; or
- could have a major impact on bank operations if the banking organization has to find an alternate third party or if the outsourced activity has to be brought in-house.

Third-Party Relationship Life Cycle

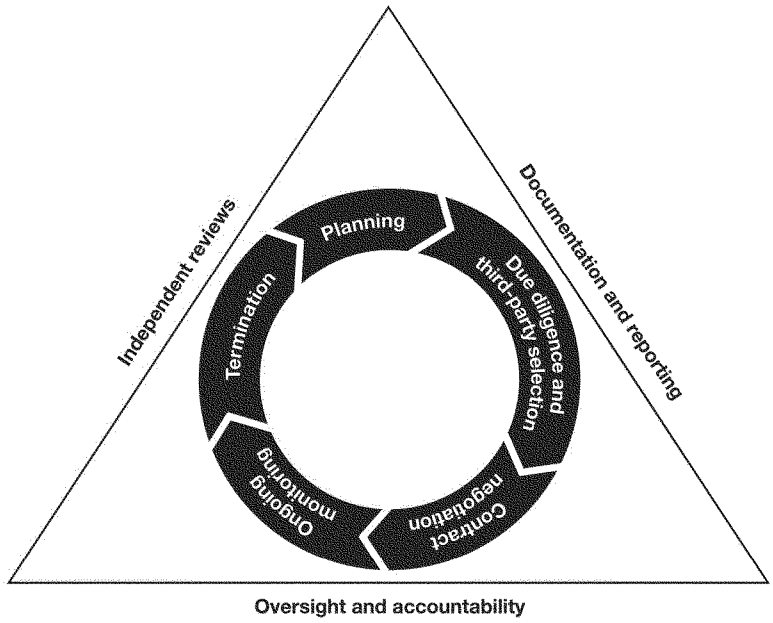
Effective third-party risk management generally follows a continuous life cycle for all relationships and incorporates the following principles applicable to all stages of the life cycle:

[11] This guidance is relevant for all third-party relationships, including situations in which a supervised banking organization provides services to another supervised banking organization.

[12] These relationships could include partnerships, joint ventures, or other types of formal legal structures or informal arrangements.

[13] Significant bank functions include any business line of a banking organization, including associated operations, services, functions, and support, that upon failure would result in a material loss of revenue, profit, or franchise value.

Figure 1: Stages of the Risk Management Life Cycle



Source: Board, FDIC, and OCC

1. Planning

Before entering into a third-party relationship, banking organizations evaluate the types and nature of risks in the relationship and develop a plan to manage the relationship and its related risks. Certain third parties, particularly those providing critical services, typically warrant significantly greater planning and consideration. For example, when critical activities are involved, such plans may be presented to and approved by a banking organization's board of directors (or a designated board committee).

A banking organization typically considers the following factors, among others, in planning for a third-party relationship:

- Identifying and assessing the risks associated with the business arrangement and commensurate steps for appropriate risk management;
- Understanding the strategic purpose of the business arrangement and how the arrangement aligns with a banking organization's overall strategic goals, objectives, risk appetite, and broader corporate policies;
- Considering the complexity of the business arrangement, such as the volume of activity, potential for subcontractor(s), the technology needed, and the likely degree of foreign-based third-party activities;
- Evaluating whether the potential financial benefits outweigh the estimated costs (including estimated direct contractual costs as well as indirect costs to augment or alter banking organization processes, systems, or staffing to properly manage the third-party relationship or to adjust or terminate other existing contracts);
- Considering how the third-party relationship could affect other strategic banking organization initiatives, such as large technology projects, organizational changes, mergers, acquisitions, or divestitures;
- Evaluating how the third-party relationship could affect banking organization employees, including dual employees,[14] and what transition steps are needed for the banking organization to manage the impacts when the activities currently conducted internally are outsourced;
- Assessing the nature of customer interaction with the third party and potential impact on the banking organization's customers—including access to or use of those customers' confidential information, joint marketing or franchising arrangements, and handling of customer complaints—and identifying possible steps needed to manage these impacts;
- Understanding potential information security implications including access to the banking organization's systems and to its confidential information;
- Describing how the banking organization will select, assess, and oversee the third party, including monitoring the third party's compliance with contractual provisions;
- Determining the banking organization's ability to provide adequate oversight and management of the proposed third-party relationship on an ongoing basis (including whether staffing levels and expertise, risk management and compliance management systems, organizational structure, policies and procedures, or internal control systems need to be adapted for the banking organization to effectively address the business arrangement); and
- Outlining the banking organization's contingency plans in the event the banking organization needs to transition the activity to another third party or bring it in-house.

As with all other phases of the third-party risk management life cycle, it is important for planning and assessment to be performed by those with the requisite knowledge and skills. A banking organization may involve experts across disciplines, such as compliance, risk, or technology officers, legal counsel, and external support where helpful to supplement the qualifications and technical expertise of in-house staff.

[14] Dual employees are employed by both the banking organization and the third party.

2. Due Diligence and Third-Party Selection

Conducting due diligence on third parties before selecting and entering into contracts or relationships is an important risk management activity. Relying solely on experience with or prior knowledge of a third party is not an adequate proxy for performing appropriate due diligence.

The degree of due diligence should be commensurate with the level of risk and complexity of each third-party relationship. Due diligence will include assessing a third party's ability to perform the activity as expected, adhere to a banking organization's policies, comply with all applicable laws, regulations, and requirements, and operate in a safe and sound manner.

The due diligence process also provides management with the information needed to determine whether a relationship mitigates identified risks or poses additional risk. More extensive due diligence is particularly important when a third-party relationship is higher risk or where it involves critical activities. For some relationships, on-site visits may be useful to understand fully the third party's operations and capacity. If a banking organization uncovers information that warrants additional scrutiny, the banking organization should consider broadening the scope or assessment methods of the due diligence as needed. In some instances, a banking organization may not be able to obtain the desired due diligence information from the third party. For example, the third party may not have a long operational history or demonstrated financial performance. In such situations, it is important to identify limitations, understand the risks, consider how to mitigate the risks, and determine whether the residual risks are acceptable.

In order to facilitate or supplement a banking organization's due diligence, a banking organization may use the services of industry utilities or consortiums, including development organizations, consult with other banking organizations,[15] or engage in joint efforts for performing due diligence to meet its established assessment criteria. Effective risk management processes include assessing the risks of outsourcing due diligence when relying on the services of other banking organizations, utilities, consortiums, or other similar arrangements and assessment standards. Use of such external services does not abrogate the responsibility of the board of directors to decide on matters related to third-party relationships involving critical activities or the responsibility of management to handle third-party relationships in a safe and sound manner and consistent with applicable laws and regulations.

A banking organization typically considers the following factors, among others, during due diligence of a third party:

a. Strategies and Goals

Review the third party's overall business strategy and goals to consider how the third party's current and proposed strategic business arrangements (such as mergers, acquisitions, divestitures, partnerships, joint ventures, or joint marketing initiatives) may affect the activity. Also consider reviewing the third party's service philosophies, quality initiatives, efficiency improvements, and employment policies and practices. Consider whether the selection of a third party is consistent with a banking organization's broader corporate policies and practices, including its diversity policies and practices.

b. Legal and Regulatory Compliance

Evaluate the third party's ownership structure (including any beneficial ownership, whether public or private, foreign or domestic ownership) and its legal and regulatory compliance capabilities. Determine whether the third party has the necessary licenses to operate and the expertise, processes, and controls to enable the banking organization to remain compliant with domestic and international laws and regulations.[16] Consider the third party's response to existing or recent regulatory compliance issues and its compliance status with applicable supervisory agencies and self-regulatory organizations, as appropriate. Consider whether the third party has identified, and articulated a process to mitigate, areas of potential consumer harm, particularly in which the third party will have direct contact with the bank's customers, develop customer-facing documents, or provide new, complex, or unique products.

c. Financial Condition

Assess the third party's financial condition, including reviews of the third party's audited financial statements, annual reports, filings with the U.S. Securities and Exchange Commission (SEC), and other available financial information. Alternative information may be beneficial for conducting an assessment, including when third parties have limited financial information. For example, the banking organization may consider expected growth, earnings, pending litigation, unfunded liabilities, or other factors that may affect the third party's overall financial stability. Depending on the significance of the third-party relationship or whether the banking organization has a financial exposure to the third party, the banking organization's analysis may be as comprehensive as if it were extending credit to the third party.

d. Business Experience

Evaluate the third party's depth of resources and any previous experience in meeting the banking organization's expectations. Assess the third party's degree of and its history of managing customer complaints or litigation. Determine how long the third party has been in business and whether there have been significant changes in the activities offered or in its business model. Check the third party's SEC or other regulatory filings. Review the third party's websites and other marketing materials related to the banking products or services to ensure that statements and assertions align with the banking organization's expectations and accurately represent the activities and capabilities of the third party. Determine whether and how the third party plans to use the banking organization's name in marketing efforts.

e. Fee Structure and Incentives

Evaluate the third party's fee structure and incentives to determine if the fee structure and incentives would create burdensome upfront or termination fees or result in inappropriate risk taking by the third party or the banking organization. Consider whether any fees or incentives are subject to, and comply with, applicable law.

f. Qualifications and Backgrounds of Company Principals

Evaluate the qualifications and experience of the company's principals related to the services provided by the third party. Consider whether a third party periodically conducts thorough background checks on its senior

[15] Any collaborative activities among banks must comply with antitrust laws. Refer to the Federal Trade Commission and U.S. Department of Justice's ''Antitrust Guidelines for Collaborations Among Competitors,'' *https://www.ftc.gov/sites/default/files/documents/public_events/joint-venture-hearings-antitrust-guidelines-collaboration-among-competitors/ftcdojguidelines-2.pdf* (April 2000).

[16] To the extent the activities performed by the third party are subject to specific laws and regulations (*e.g.,* privacy, information security, Bank Secrecy Act/anti-money laundering (BSA/AML), or fiduciary requirements).

management and employees, as well as on subcontractors, who may have access to critical systems or confidential information. Confirm that third parties have policies and procedures in place for identifying and removing employees who do not meet minimum background check requirements or are otherwise barred from working in the financial services sector.

g. Risk Management

Evaluate the effectiveness of the third party's own risk management, including policies, processes, and internal controls. Consider whether the third party's risk management processes align with applicable banking organization policies and expectations surrounding the activity. Assess the third party's change management processes, including to ensure that clear roles, responsibilities, and segregation of duties are in place. Where applicable, determine whether the third party's internal audit function independently and effectively tests and reports on the third party's internal controls. Evaluate processes for escalating, remediating, and holding management accountable for concerns identified during audits or other independent tests. If available, consider reviewing System and Organization Control (SOC) reports and whether these reports contain sufficient information to assess the third party's risk or whether additional scrutiny is required through an assessment or audit by the banking organization or other third party at the banking organization's request. For example, consider whether or not SOC reports from the third party include within their coverage the internal controls and operations of subcontractors of the third party that support the delivery of services to the banking organization. Consider any conformity assessment or certification by independent third parties related to relevant domestic or international standards (for example, those of the National Institute of Standards and Technology (NIST), Accredited Standards Committee X9, Inc. (X9), and the International Standards Organization (ISO)).[17]

h. Information Security

Assess the third party's information security program. Consider the consistency of the third party's information security program with the banking organization's program, and whether there are gaps that present risk to the banking organization. Determine whether the third party has sufficient experience in identifying, assessing, and mitigating known and emerging threats and vulnerabilities. When technology supports service delivery, assess the third party's data, infrastructure, and application security programs, including the software development life cycle and results of vulnerability and penetration tests. Consider the extent to which the third party uses controls to limit access to the banking organization's data and transactions, such as multifactor authentication, end-to-end encryption, and secured source code management. Evaluate the third party's ability to implement effective and sustainable corrective actions to address deficiencies discovered during testing.

i. Management of Information Systems

Gain a clear understanding of the third party's business processes and technology that will be used to support the activity. When technology is a major component of the third-party relationship, review both the banking organization's and the third party's information systems to identify gaps in service-level expectations, technology, business process and management, or interoperability issues. Review the third party's processes for maintaining timely and accurate inventories of its technology and its subcontractor(s). Consider risks and benefits of different programing languages. Understand the third party's metrics for its information systems and confirm that they meet the banking organization's expectations

j. Operational Resilience

Assess the third party's ability to deliver operations through a disruption from any hazard with effective operational risk management combined with sufficient financial and operational resources to prepare, adapt, withstand, and recover from disruptions.[18] Assess options to employ if a third party's ability to deliver operations is impaired.

Determine whether the third party maintains an appropriate business continuity management program, including disaster recovery and business continuity plans that specify the time frame to resume activities and recover data. Confirm that the third party regularly tests its operational resilience in an appropriate format and frequency. In order to assess the scope of operational resilience capabilities, banks may review the third party's telecommunications redundancy and resilience plans and preparations for known and emerging threats and vulnerabilities, such as wide-scale natural disasters, pandemics, distributed denial of service attacks, or other intentional or unintentional events. Consider risks related to technologies used by third parties, such as interoperability or potential end of life issues with software programming language, computer platform, or data storage technologies that may impact operational resilience. Banks may also gain additional insight into a third party's resilience capabilities by reviewing the results of business continuity testing results and performance during actual disruptions.

k. Incident Reporting and Management Programs

Review and consider the third party's incident reporting and management programs to ensure there are clearly documented processes, timelines, and accountability for identifying, reporting, investigating, and escalating incidents. Confirm that the third party's escalation and notification processes meet the banking organization's expectations and regulatory requirements.

l. Physical Security

Evaluate whether the third party has sufficient physical and environmental controls to protect the safety and security of its facilities, technology systems, data, and employees. Where sensitive banking organization data may be accessible, review employee on- and off-boarding procedures to ensure physical access rights are managed appropriately.

m. Human Resource Management

Review the third party's processes to train and hold employees accountable for compliance with policies and procedures. Review the third party's succession and redundancy planning for key management and support personnel. Review training programs to ensure that the third party's staff is knowledgeable about applicable laws, regulations, technology, risk, and other factors that may affect the quality of services and risk to the banking organization.

n. Reliance on Subcontractors

Evaluate the volume and types of subcontracted activities and consider

[17] Conformity assessment with domestic or international standards can be considered with respect to the other areas of consideration during due diligence mentioned above.

[18] Disruptive events could include technology-based failures, human error, cyber incidents, pandemic outbreaks, and natural disasters. Additional information is available in the Interagency ''Sound Practices to Strengthen Operational Resilience.'' The OCC issued Sound Practices as part of Bulletin 2020–94 on October 30, 2020;

The Board issued Sound Practices with SR Letter 20–24 on November 2, 2020; and

The FDIC issued Sound Practices as a FIL Letter on November 2, 2020.

any implications or risks associated with the subcontractors' geographic locations. Evaluate the third party's ability to identify, assess, monitor, and mitigate risks from its use of subcontractors and to provide that the same level of quality and controls exists no matter where the subcontractors' operations reside. Evaluate whether additional risks may arise from the third party's reliance on subcontractors and, as appropriate, conduct similar due diligence on the third party's critical subcontractors, such as when additional risk may arise due to concentration-related risk, when the third party outsources significant activities, or when subcontracting poses other material risks.

o. Insurance Coverage

Evaluate whether the third party has fidelity bond coverage to insure against losses attributable to, at a minimum, dishonest acts, liability coverage for losses attributable to negligent acts, and hazard insurance covering fire, loss of data, and protection of documents. Evaluate whether the third party has insurance coverage for areas that may not be covered under a general commercial policy, such as its intellectual property rights and cybersecurity. The amounts of such coverage should be commensurate with the level of risk involved with the third party's operations and the type of activities to be provided.

p. Conflicting Contractual Arrangements With Other Parties

Obtain information regarding legally binding arrangements with subcontractors or other parties to determine whether the third party has indemnified itself, as such arrangements may transfer risks to the banking organization. Evaluate the potential legal and financial implications to the banking organization of these contracts between the third party and its subcontractors or other parties.

3. Contract Negotiation

Once a banking organization selects a third party, it negotiates a contract that clearly specifies the rights and responsibilities of each party to the contract. The banking organization seeks to add provisions to satisfy its needs. While third parties may initially offer a standard contract, banks may seek to request additional contract provisions or addendums upon request. In situations where it is difficult for a banking organization to negotiate contract terms, it is important for the banking organization to understand any resulting limitations, determine whether the contract can still meet the banking organization's needs, and determine whether the contract would result in increased risk to the banking organization. If the contract would not satisfy the banking organization's needs or would result in an unacceptable increase in risk, the banking organization may wish to consider other third parties for the service. Banking organizations may also gain advantage by negotiating contracts as a group with other users.

The board (or a designated committee reporting to the board) should be aware of and approve contracts involving critical activities before their execution. Legal counsel review may be necessary for significant contracts prior to finalization. As part of sound risk management, a banking organization reviews existing contracts periodically, particularly those involving critical activities, to ensure they continue to address pertinent risk controls and legal protections. Where problems are identified, the banking organization should seek to renegotiate at the earliest opportunity. A material or significant contract with a third party typically prohibits assignment, transfer, or subcontracting by the third party of its obligations to another entity without the banking organization's consent.

A banking organization typically considers the following factors, among others, during contract negotiations with a third party:

a. Nature and Scope of Arrangement

A contract specifies the nature and scope of the business arrangement (for example, the frequency, content, and format of the activity) and includes, as applicable, such ancillary services as software or other technology support and maintenance, employee training, and customer service. A contract may also specify which activities the third party is to conduct, whether on or off the banking organization's premises, and describe the terms governing the use of the banking organization's information, facilities, personnel, systems, and equipment, as well as access to and use of the banking organization's or customers' information. When dual employees will be used, the contract typically clearly articulates their responsibilities and reporting lines.

b. Performance Measures or Benchmarks

A service-level agreement between the banking organization and third party specifies measures surrounding the expectations and responsibilities for both parties, including conformance with regulatory standards or rules. Performance and risk measures can be used to motivate the third party's performance, penalize poor performance, or reward outstanding performance. Performance measures should not incentivize undesirable performance or behavior, such as encouraging processing volume or speed without regard for timeliness, accuracy, compliance requirements, or adverse effects on banking organization customers.

c. Responsibilities for Providing, Receiving, and Retaining Information

Confirm that the contract includes provisions that the third party provides and retains timely, accurate, and comprehensive information, such as records and reports, that allow banking organization management to monitor performance, service levels, and risks. Stipulate the frequency and type of reports needed.

Confirm that the contract sufficiently addresses:

- The ability of the institution to have unrestricted access to its data whether or not in the possession of the third party;
- The responsibilities and methods to address failures to adhere to the agreement including the ability of all parties to the agreement to exit the relationship;
- The banking organization's materiality thresholds and the third party's procedures for immediately notifying the banking organization whenever service disruptions, security breaches, compliance lapses, enforcement actions, regulatory proceedings, or other events pose a significant risk to the banking organization (for example, financial difficulty, catastrophic events, and significant incidents);
- Notification to the banking organization before making significant changes to the contracted activities, including acquisition, subcontracting, offshoring, management, or key personnel changes, or implementing new or revised policies, processes, and information technology;
- Notification to the banking organization of significant strategic business changes, such as mergers, acquisitions, joint ventures, divestitures, or other business activities that could affect the activities involved;
- The ability for the banking organization to access native data and to authorize and allow other third parties to access its data during the term of the contract;
- The ability of the third party to resell, assign, or permit access to the

banking organization's data, metadata, and systems to other entities;

- Expectations for the third party to notify the banking organization of significant operational changes or when the third party experiences significant incidents; and
- Specification of the type and frequency of management information reports to be received from the third party, where appropriate. This may include routine reports, among others, on performance reports, audits, financial reports, security reports, and business resumption testing reports.

d. The Right To Audit and Require Remediation

The contract often establishes the banking organization's right to audit, monitor performance, and provide for remediation when issues are identified. Generally, a third-party contract includes provisions for periodic, independent, internal, or external audits of the third party, and relevant subcontractors, at intervals and scopes consistent with the banking organization's in-house functions to monitor performance with the contract. An effective contract provision includes the types and frequency of audit reports the banking organization is entitled to receive from the third party (for example, SOC reports, Payment Card Industry (PCI) compliance reports, and other financial and operational reviews). Contract provisions reserve the banking organization's right to conduct its own audits of the third party's activities or to engage an independent party to perform such audits.

e. Responsibility for Compliance With Applicable Laws and Regulations

Provide that the contract requires compliance with laws and regulations and considers relevant guidance and self-regulatory standards. These may include, among others: The Gramm-Leach-Bliley Act (including privacy and safeguarding of customer information); the Bank Secrecy Act and Anti-Money Laundering (BSA/AML) laws; the Office of Foreign Assets Control (OFAC) regulations; and consumer protection laws and regulations, including with respect to fair lending and unfair, deceptive or abusive acts or practices. Confirm that the contract gives the banking organization the right to monitor the third party's compliance with applicable laws, regulations, and policies, conduct periodic reviews to verify adherence to expectations, and require remediation if issues arise.

f. Cost and Compensation

Contracts describe compensation, fees, and calculations for base services, as well as any fees based on volume of activity and for special requests. Confirm that the contracts do not include burdensome upfront fees or incentives that could result in inappropriate risk taking by the banking organization or third party. Indicate which party is responsible for payment of legal, audit, and examination fees associated with the activities involved. Consider outlining cost and responsibility for purchasing and maintaining hardware and software and specifying the conditions under which the cost structure may be changed, including limits on any cost increases.

g. Ownership and License

State whether and how the third party has the right to use the banking organization's information, technology, and intellectual property, such as the banking organization's name, logo, trademark, metadata, and copyrighted material. Indicate whether any records generated by the third party become the banking organization's property. Include appropriate warranties on the part of the third party related to its acquisition of licenses or subscription for use of any intellectual property developed by other third parties. If the banking organization purchases software, establish escrow agreements to provide for the banking organization's access to source code and programs under certain conditions (for example, insolvency of the third party).

h. Confidentiality and Integrity

Prohibit the use and disclosure of the banking organization's information by a third party and its subcontractors, except as necessary to provide the contracted activities or comply with legal requirements. If the third party receives a banking organization's customers' personally identifiable information, the contract should ensure that the third party implements and maintains appropriate security measures to comply with privacy regulations and regulatory guidelines. Specify when and how the third party will disclose, in a timely manner, information security breaches that have resulted in unauthorized intrusions or access that may materially affect the banking organization or its customers. Stipulate that intrusion notifications of customer data include estimates of the effects on the banking organization and its customers and specify corrective action to be taken by the third party. Address the powers of each party to change security and risk management procedures and requirements and resolve any confidentiality and integrity issues arising out of shared use of facilities owned by the third party. Stipulate whether and how often the banking organization and the third party will jointly practice incident management exercises involving unauthorized intrusions or other breaches of confidentiality and integrity.

i. Operational Resilience and Business Continuity

Confirm that the contract provides for continuation of the business function in the event of problems affecting the third party's operations, including degradations or interruptions resulting from natural disasters, human error, or intentional attacks. Stipulate the third party's responsibility for backing up and otherwise protecting programs, data backup, periodic maintenance for cybersecurity issues that emerge over time, and maintaining current and sound business resumption and business continuity plans. Include provisions for transferring the banking organization's accounts, data, or activities to another third party without penalty in the event of the third party's bankruptcy, business failure, or business interruption.

Contracts often require the third party to provide the banking organization with operating procedures to be carried out in the event business continuity plans are implemented, including specific recovery time and recovery point objectives. In particular, it is important for the contract to contain service level agreements and related services that can support the needs of the banking organization. Stipulate whether and how often the banking organization and the third party will jointly test business continuity plans. In the event the third party is unable to provide services as agreed, the contract permits the banking organization to terminate the service without being assessed a termination penalty and provides access to data in order to transfer services to another provider for continuity of operations.

j. Indemnification

Consider including indemnification clauses that specify the extent to which the banking organization will be held liable for claims that cite failure of the third party to perform, including failure of the third party to obtain any necessary intellectual property licenses. Carefully assess indemnification clauses that require the banking organization to hold the third party harmless from liability.

k. Insurance

Consider whether the third party maintains adequate types and amounts of insurance (including, if appropriate, naming the banking organization as insured or additional insured), notifies the banking organization of material changes to coverage, and provides evidence of coverage where appropriate. Types of insurance coverage may include fidelity bond; cybersecurity; liability; property hazard and casualty; and intellectual property.

l. Dispute Resolution

Consider whether the contract should establish a dispute resolution process (arbitration, mediation, or other means) to resolve problems between the banking organization and the third party in an expeditious manner, and whether the third party should continue to provide activities to the banking organization during the dispute resolution period.

m. Limits on Liability

A contract may limit the third party's liability, in which case the banking organization may consider whether the proposed limit is in proportion to the amount of loss the banking organization might experience because of the third party's failure to perform or to comply with applicable laws, and whether the contract would subject the banking organization to undue risk of litigation.

n. Default and Termination

Confirm that the contract stipulates what constitutes default; identifies remedies and allows opportunities to cure defaults; and stipulates the circumstances and responsibilities for termination. Contracts can protect the ability of the banking organization to change providers when appropriate without undue restrictions, limitations, or cost. Determine whether the contract:

- Includes a provision that enables the banking organization to terminate the relationship in a timely manner without prohibitive expense;
- Includes termination and notification provisions with reasonable time frames to allow for the orderly conversion to another third party;
- Provides for the timely return or destruction of the banking organization's data and other resources;
- Provides for ongoing monitoring of the third party after the contract terms are satisfied, as necessary; and
- Clearly assigns all costs and obligations associated with transition and termination.

Additionally, effective contracts enable the banking organization to terminate the relationship upon reasonable notice and without penalty in the event that the banking organization's primary federal banking regulator formally directs the banking organization to terminate the relationship.

o. Customer Complaints

Specify whether the banking organization or third party is responsible for responding to customer complaints. If it is the third party's responsibility, include provisions in the contract that provide for the third party to receive and respond in a timely manner to customer complaints, and forward a copy of each complaint and response to the banking organization. The contract addresses the submission of sufficient, timely, and usable information to enable the banking organization to analyze customer complaint activity and trends for risk management purposes.

p. Subcontracting

Consider whether to allow the third party to use a subcontractor, and if so, address when and how the third party should notify or seek approval from the banking organization of its intent to use a subcontractor (for example, for certain activities or in certain locations) or whether specific subcontractors are prohibited by the banking organization. Detail contractual obligations, such as reporting on the subcontractor's conformance with performance measures, periodic audit results, compliance with laws and regulations, and other contractual obligations. State the third party's liability for activities or actions by its subcontractors and which party is responsible for the costs and resources required for any additional monitoring and management of the subcontractors. Reserve the right to terminate the contract with the third party without penalty if the third party's subcontracting arrangements do not comply with the terms of the contract.

q. Foreign-Based Third Parties

Include in contracts with foreign-based third parties choice-of-law provisions and jurisdictional provisions that provide for adjudication of all disputes between the parties under the laws of a single jurisdiction. Understand that such contracts and covenants may be subject, however, to the interpretation of foreign courts relying on local laws. Seek legal advice to confirm the enforceability of all aspects of a proposed contract with a foreign-based third party and other legal ramifications of each such business arrangement, including privacy laws and cross-border flow of information.

r. Regulatory Supervision

For relevant third-party relationships, stipulate that the performance of activities by external parties for the banking organization is subject to regulatory examination oversight, including access to all work papers, drafts, and other materials.[19]

4. Oversight and Accountability

The banking organization's board of directors (or a designated board committee) and management are responsible for overseeing the banking organization's overall risk management processes. Banking organization management is responsible for implementing third-party risk management. An effective board oversees risk management implementation and holds management accountable. Effective management teams should establish responsibility and accountability for managing third parties commensurate with the level of risk and complexity of the relationship.

a. Board of Directors

In overseeing the management of risks associated with third-party relationships, boards of directors (or directors) typically consider the following factors, among others:

- Confirming that risks related to third-party relationships are managed in a manner consistent with the banking organization's strategic goals and risk appetite;
- Approving the banking organization's policies that govern third-party risk management;
- Approving, or delegating to, an appropriate committee reporting to the board, approval of contracts with third parties that involve critical activities;
- Reviewing the results of management's ongoing monitoring of third-party relationships involving critical activities;
- Confirming that management takes appropriate actions to remedy significant deterioration in performance or address changing risks or material issues identified through ongoing monitoring; and
- Reviewing results of periodic independent reviews of the banking organization's third-party risk management process.

b. Management

When executing and implementing third-party relationship risk

[19] The agencies generally have the authority to examine and to regulate banking-related functions or operations performed by third parties for a banking organization to the same extent as if they were performed by the banking organization itself. *See* 12 U.S.C. 1464(d)(7)(D) and 1867(c)(1).

management strategies and policies, management typically considers:

- Developing and implementing the banking organization's third-party risk management process;
- Confirming that appropriate due diligence and ongoing monitoring is conducted on third parties and presenting results to the board when making recommendations to use third parties that involve critical activities;
- Reviewing and approving contracts with third parties;
- Providing appropriate organizational structures, management and staffing (level and expertise);
- Confirming that third parties comply with the banking organization's policies and reporting requirements;
- Providing that third parties be notified of significant operational issues at the banking organization that may affect the third party;
- Confirming that the banking organization has an appropriate system of internal controls and regularly tests the controls to manage risks associated with third-party relationships;
- Confirming that the banking organization's compliance management system is appropriate to the nature, size, complexity, and scope of its third-party business arrangements;
- Providing that third parties regularly test and implement agreed-upon remediation when issues arise;
- Escalating significant issues to the board;
- Terminating business arrangements with third parties that do not meet expectations or no longer align with the banking organization's strategic goals, objectives, or risk appetite; and
- Maintaining appropriate documentation throughout the life cycle.

c. Independent Reviews

Banking organizations typically conduct periodic independent reviews of the third-party risk management process, particularly when third parties perform critical activities. The banking organization's internal auditor or an independent third party may perform the reviews, and senior management confirms that the results are reported to the board. Reviews include assessing the adequacy of the banking organization's process for:

- Confirming third-party relationships align with the banking organization's business strategy;
- Identifying, measuring, monitoring, and controlling risks of third-party relationships;
- Understanding and monitoring concentration risks that may arise from relying on a single third party for multiple activities or from geographic concentrations of business; [20]
- Responding to material breaches, service disruptions, or other material issues;
- Involving multiple disciplines across the banking organization as appropriate during each phase of the third-party risk management life cycle; [21]
- Confirming appropriate staffing and expertise to perform risk assessment, due diligence, contract negotiation, and ongoing monitoring and management of third parties;
- Confirming oversight and accountability for managing third-party relationships (for example, whether roles and responsibilities are clearly defined and assigned and whether the individuals possess the requisite expertise, resources, and authority); and
- Confirming that conflicts of interest or appearances of conflicts of interest do not exist when selecting or overseeing third parties.

The results of independent reviews may be used to determine whether and how to adjust the banking organization's third-party risk management process, including policy, reporting, resources, expertise, and controls. It is important that management responds promptly and thoroughly to significant issues or concerns identified and escalates them to the board if the risk posed is approaching the banking organization's risk appetite limits.

d. Documentation and Reporting

It is important that banking organization management properly document and report on its third-party risk management process and specific business arrangements throughout their life cycle. Proper documentation and reporting facilitate the accountability, monitoring, and risk management associated with third parties, will vary among organizations depending on their size and complexity, and may include the following:

- A current inventory of all third-party relationships, which clearly identifies those relationships that involve critical activities and delineates the risks posed by those relationships across the banking organization; [22]
- Approved plans for the use of third-party relationships;
- Risk assessments;
- Due diligence results, findings, and recommendations;
- Analysis of costs associated with each activity or third-party relationship, including any indirect costs assumed by the banking organization;
- Executed contracts;
- Regular risk management and performance reports required and received from the third party, which may include reports on service level reporting, internal control testing, cybersecurity risk and vulnerabilities metrics, results of independent reviews and other ongoing monitoring activities; and
- Reports from third parties of service disruptions, security breaches, or other events that pose a significant risk to the banking organization.

5. Ongoing Monitoring

Ongoing monitoring is an essential component of third-party risk management, occurring throughout the duration of a third-party relationship. Ongoing monitoring occurs after the third-party relationship is established and often leverages processes similar to due diligence. The appropriate degree of ongoing monitoring is commensurate with the level of risk and complexity of the third-party relationship. More comprehensive monitoring is typically necessary when the third-party relationship is higher risk (for example, involving critical activities). Banking organizations periodically re-assess existing relationships to determine whether the nature of an activity subsequently becomes critical.

Because both the level and types of risks may change over the lifetime of third-party relationships, banking organizations adapt their ongoing monitoring practices accordingly. Management's monitoring may result in changes to the frequency and types of reports from the third party, including service-level agreement performance reports, audit reports, and control testing results.

As part of sound risk management, banking organizations dedicate sufficient staffing with the necessary expertise, authority, and accountability to perform ongoing monitoring, which may include periodic on-site visits and meetings with third-party representatives to discuss performance and operational issues. Effective

[20] For example, more complex relationships could include foreign-based third parties and the use of subcontractors.

[21] In addition to the functional business units, this may include information technology, identity and access management, physical security, information security, business continuity, compliance, legal, risk management, and human resources.

[22] Under Section 7(c) of the Bank Service Company Act, 12 U.S.C. 1867(c), banks are required to notify the appropriate federal banking agency of the existence of a servicing relationship. Federal savings associations are subject to similar requirements set forth in 12 U.S.C. 1464(d)(7)(D)(ii) and 1867(c)(2).

monitoring activities enable banking organizations to confirm the quality and sustainability of the third party's controls and ability to meet service-level agreements (for example, ongoing review of third-party performance metrics). Additionally, ongoing monitoring typically includes the regular testing of the banking organization's controls to manage risks from third-party relationships, particularly when critical activities are involved. Bank employees who directly manage third-party relationships escalate to senior management significant issues or concerns arising from ongoing monitoring, such as an increase in risk, material weaknesses and repeat audit findings, deterioration in financial condition, security breaches, data loss, service or system interruptions, or compliance lapses. In addition, based on the results of the ongoing monitoring and internal control testing, banking organizations respond to issues when identified, including escalating significant issues to the board.

A banking organization typically considers the following factors, among others, for ongoing monitoring of a third party:

- Evaluate the overall effectiveness of the third-party relationship and the consistency of the relationship with the banking organization's strategic goals;
- Assess changes to the third party's business strategy, legal risk, and its agreements with other entities that may pose conflicting interests, introduce risks, or impact the third party's ability to meet contractual obligations;
- Evaluate the third party's financial condition and changes in the third party's financial obligations to others;
- Review the adequacy of the third party's insurance coverage;
- Review relevant audits and other reports from the third party, and consider whether the results indicate an ability to meet contractual obligations and effectively manage risks;
- Monitor for compliance with applicable legal and regulatory requirements;
- Assess the effect of any changes in key third party personnel involved in the relationship with the banking organization;
- Monitor the third party's reliance on, exposure to, performance of, and use of subcontractors, as stipulated in contractual requirements, the location of subcontractors, and the ongoing monitoring and control testing of subcontractors;
- Determine the adequacy of any training provided to employees of the banking organization and the third party;
- Review processes for adjusting policies, procedures, and controls in response to changing threats and new vulnerabilities and material breaches or other serious incidents;
- Monitor the third party's ability to maintain the confidentiality and integrity of the banking organization's systems and information, including the banking organization's customers' data if received by the third party;
- Review the third party's business resumption contingency planning and testing and evaluate the third party's ability to respond to and recover from service disruptions or degradations and meet business resilience expectations; and
- Evaluate the volume, nature, and trends of consumer inquiries and complaints and assess the third party's ability to appropriately address and remediate inquiries and complaints.

6. Termination

A banking organization may terminate a relationship for various reasons specified in the contract, such as expiration of or dissatisfaction with the contract, a desire to seek an alternate third party, a desire to bring the activity in-house or discontinue the activity, or a breach of contract. When this occurs, it is important for management to terminate relationships in an efficient manner, whether the activities are transitioned to another third party, brought in-house, or discontinued. In the event of contract default or termination, a well-run banking organization should consider how to transition services in a timely manner to another third-party provider or bring the service in-house if there are no alternate third-party providers. In planning for termination, a banking organization typically considers the following factors, among others:

- Capabilities, resources, and the time frame required to transition the activity while still managing legal, regulatory, customer, and other impacts that might arise;
- Potential third-party service providers to which the services could be transitioned;
- Risks associated with data retention and destruction, information system connections and access control issues, or other control concerns that require additional risk management and monitoring during and after the end of the third-party relationship;
- Handling of joint intellectual property developed during the course of the business arrangement; and
- Risks to the banking organization if the termination happens as a result of the third party's inability to meet expectations.

D. Supervisory Reviews of Third-Party Relationships

A banking organization's failure to have an effective third-party risk management process that is commensurate with the level of risk, complexity of third-party relationships, and organizational structure of the banking organization may be an unsafe or unsound practice.

When reviewing third party risk management, examiners typically:

- Assess the banking organization's ability to oversee and manage its relationships;
- Highlight and discuss material risks and any deficiencies in the banking organization's risk management process with the board of directors and senior management;
- Carefully review the banking organization's plans for appropriate and sustainable remediation of such deficiencies, particularly those associated with the oversight of third parties that involve critical activities;
- Identify and report deficiencies in supervisory findings and reports of examination and recommend appropriate supervisory actions. These actions may include issuing Matters Requiring Attention, issuing Matters Requiring Board Attention, and recommending formal enforcement actions;
- Consider the findings when assigning the management component of the Federal Financial Institutions Examination Council's Uniform Financial Institutions Rating System. Serious deficiencies may result in management being deemed less than satisfactory; and
- Reflect the associated risks in the overall assessment of the banking organization's risk profile.

When circumstances warrant, the agencies may use their authorities to examine the functions or operations performed by a third party on the banking organization's behalf. Such examinations may evaluate safety and soundness risks, the financial and operational viability of the third party, the third party's ability to fulfill its contractual obligations and comply with applicable laws and regulations, including those related to consumer protection (including with respect to fair lending and unfair or deceptive acts or practices), and BSA/AML and OFAC laws and regulations. The agencies may pursue appropriate corrective measures, including enforcement actions, to

address violations of law and regulations or unsafe or unsound banking practices by the banking organization or its third party.

[Separate Exhibit]

V. OCC's 2020 Frequently Asked Questions (FAQs) on Third-Party Relationships

The agencies are including the OCC's 2020 FAQs, released in March 2020, as an exhibit, separate from the proposed guidance. The OCC issued the 2020 FAQs to clarify the OCC's 2013 third-party risk management guidance. The agencies seek public comment on the extent to which the concepts discussed in the OCC's 2020 FAQs should be incorporated into the final version of the guidance. More specifically, the agencies seek public comment on whether: (1) Any of these concepts should be incorporated into the final guidance; and (2) there are additional concepts that would be helpful to include.

Third-Party Relationships: Frequently Asked Questions To Supplement OCC Bulletin 2013–29

Summary

The Office of the Comptroller of the Currency (OCC) issued frequently asked questions (FAQ) to supplement OCC Bulletin 2013–29, ''Third-Party Relationships: Risk Management Guidance.'' These FAQs were intended to clarify the OCC's existing guidance and reflect evolving industry trends.

Note for Community Banks

This bulletin applies to community banks.[1]

Highlights

Topics addressed in the FAQs include

- the terms ''third-party relationship'' and ''business arrangement.''
- when cloud computing providers are in a third-party relationship with a bank.
- when data aggregators are in a third-party relationship with a bank.
- risk management when the bank has limited negotiating power in contractual arrangements.
- critical activities and how a bank can determine the risks associated with third-party relationships.
- bank management's responsibilities regarding a third party's subcontractors.
- reliance on and use of third party-provided reports, certificates of compliance, and independent audits.
- risk management when third party has limited ability to provide the same level of due diligence-related information as larger or more established third parties.
- risk management when using a third-party model or when using a third party to assist with model risk management.
- use of third-party assessment services in managing third-party relationship risks.
- a board's approval of contracts.
- risk management when obtaining alternative data from a third party.

Frequently Asked Questions

1. What is a third-party relationship? (Originally FAQ No. 1 in OCC Bulletin 2017–21)

OCC Bulletin 2013–29 defines a third-party relationship as any business arrangement between the bank and another entity, by contract or otherwise.

Bank management should conduct in-depth due diligence and ongoing monitoring of each of the bank's third-party service providers that support critical activities. The OCC realizes that although banks may want in-depth information, they may not receive all the information they seek on each critical third-party service provider, particularly from new companies. When a bank does not receive all the information it seeks about third-party service providers that support the bank's critical activities, the OCC expects the bank's board of directors and management to

- develop appropriate alternative ways to analyze these critical third-party service providers.
- establish risk-mitigating controls.
- be prepared to address interruptions in delivery (for example, use multiple payment systems, generators for power, and multiple telecommunications lines in and out of critical sites).
- make risk-based decisions that these critical third-party service providers are the best service providers available to the bank despite the fact that the bank cannot acquire all the information it wants.
- retain appropriate documentation of all their efforts to obtain information and related decisions.
- ensure that contracts meet the bank's needs.

2. What is a ''business arrangement?''

OCC Bulletin 2013–29 states that a third-party relationship is any business arrangement between a bank and another entity, by contract or otherwise. The term ''business arrangement'' is meant to be interpreted broadly and is synonymous with the term third-party relationship. A footnote in OCC Bulletin 2013–29 provides examples of business arrangements (third-party relationships), such as activities that involve outsourced products and services, use of independent consultants, networking arrangements, merchant payment processing, services provided by affiliates and subsidiaries, joint ventures, and other business arrangements in which the bank has an ongoing relationship or may have responsibility for the associated records. Neither a written contract nor a monetary exchange is necessary to establish a business arrangement; all that is necessary is an agreement between the bank and the third party. Business arrangements generally exclude bank customers.

Traditionally, banks use the terms ''vendor'' or ''outsource'' to describe business arrangements and often use these terms instead of third-party relationships. A ''vendor'' is typically an individual or company offering something for sale, and banks may ''outsource'' a bank function or task to another company. A bank's relationships with vendors or entities to which banks outsource bank functions or activities do not represent the only types of business arrangements.

Since the publication of OCC Bulletin 2013–29, business arrangements have expanded and become more varied and, in some cases, more complex. The OCC has received requests for clarification regarding business arrangements and how those arrangements relate to OCC Bulletin 2013–29. The following are some examples:

- *Referral arrangements:* A referral arrangement is a continuing agreement between a bank and another party (*e.g.,* bank, corporate entity, or individual) in which the bank refers potential customers (or ''leads'') to the other party in exchange for some form of compensation. The compensation may also be non-financial such as cross-marketing. The bank has a business arrangement with the party receiving the bank's referral.
- *Appraisers and appraisal management companies:* Some banks maintain an approved panel or list of individual appraisers. When an appraisal is requested, the bank enters into an agreement with an individual appraiser. This establishes a business arrangement between the bank and the individual appraiser. Banks may also outsource the process of engaging real estate appraisers to appraisal management companies. In such an instance, a bank has a business arrangement with the appraisal management company that the bank uses.[2]
- *Professional service providers:* Service providers such as law firms,

consultants, or audit firms often provide professional services to banks. A bank that receives these professional services has a business arrangement with the professional service provider.[3]

○ *Maintenance, catering, and custodial service companies:* There are many companies that a bank or a line of business may need to provide a product or service either to the bank or to the bank's customers. The bank has a business arrangement with each of these types of companies.[4]

3. Does a company that provides a bank with cloud computing have a third-party relationship with the bank? If so, what are the third-party risk management expectations?

Consistent with OCC Bulletin 2013–29, a bank that has a business arrangement with a cloud service provider has a third-party relationship with the cloud service provider. Third-party risk management for cloud computing services is fundamentally the same as for other third-party relationships. The level of due diligence and oversight should be commensurate with the risk associated with the activity or data using cloud computing. Bank management should keep in mind that specific technical controls in cloud computing may operate differently than in more traditional network environments.

When using cloud computing services, bank management should have a clear understanding of, and should document in the contract, the controls that the cloud service provider is responsible for managing and those controls that the bank is responsible for configuring and managing. Regardless of the division of control responsibilities between the cloud service provider and the bank, the bank is ultimately responsible for the effectiveness of the control environment.

A bank may have a third-party relationship with a third party that has subcontracted with a cloud service provider to house systems that support the third-party service provider. As with other third-party relationships, bank management should conduct due diligence to confirm that the third party can satisfactorily oversee and monitor the cloud service subcontractor.[5] In many cases, independent reports, such as System and Organization Controls (SOC) reports, may be leveraged for this purpose.[6]

4. If a data aggregator[7] collects customer-permissioned data from a bank, does the data aggregator have a third-party relationship with the bank? If so, what are the third-party risk management expectations?

A data aggregator typically acts at the request of and on behalf of a bank's customer without the bank's involvement in the arrangement. Banks typically allow for the sharing of customer information, as authorized by the customer, with data aggregators to support customers' choice of financial services. Whether a bank has a business arrangement with the data aggregator depends on the level of formality of any arrangements that the bank has with the data aggregator for sharing customer-permissioned data.

A bank that has a business arrangement with a data aggregator has a third-party relationship, consistent with the existing guidance in OCC Bulletin 2013–29. Regardless of the structure of the business arrangement for sharing customer-permissioned data, the level of due diligence and ongoing monitoring should be commensurate with the risk to the bank. In many cases, banks may not receive a direct service or benefit from these arrangements. In these cases, the level of risk for banks is typically lower than with more traditional business arrangements. Banks still have a responsibility, however, to manage these relationships in a safe and sound manner with consumer protections.

Information security and the safeguarding of sensitive customer data should be a key focus for a bank's third-party risk management when a bank is contemplating or has a business arrangement with a data aggregator. A security breach at the data aggregator could compromise numerous customer banking credentials and sensitive customer information, causing harm to the bank's customers and potentially causing reputation and security risk and financial liability for the bank.

If a bank is not receiving a direct service from a data aggregator and if there is no business arrangement, banks still have risk from sharing customer-permissioned data with a data aggregator. Bank management should perform due diligence to evaluate the business experience and reputation of the data aggregator to gain assurance that the data aggregator maintains controls to safeguard sensitive customer data.

The following are examples of different types of interactions that banks might have with data aggregators.

○ Agreements for banks' use of data aggregation services:[8] A business arrangement exists when a bank contracts or partners with a data aggregator to use the data aggregator's services to offer or enhance a bank product or service. Due diligence, contract negotiation, and ongoing monitoring should be commensurate with the risk, similar to the bank's risk management of other third-party relationships.

○ Agreements for sharing customer-permissioned data: Many banks are establishing bilateral agreements with data aggregators for sharing customer-permissioned data, typically through an application programming interface (API).[9] Banks typically establish these agreements to share sensitive customer data through an efficient and secure portal. These business arrangements, using APIs, may reduce the use of less effective methods, such as screen scraping, and can allow bank customers to better define and manage the data they want to share with a data aggregator and limit access to unnecessary sensitive customer data.

When a bank establishes a contractual relationship with a data aggregator to share sensitive customer data (with the bank customer's permission), the bank has established a business arrangement as defined in OCC Bulletin 2013–29. In such an arrangement, the bank's customer authorizes the sharing of information and the bank typically is not receiving a direct service or financial benefit from the third party. As with other business arrangements, however, banks should gain a level of assurance that the data aggregator is managing sensitive bank customer information appropriately given the potential risk.

○ *Screen scraping:* A common method for data aggregation is screen scraping, in which a data aggregator uses the customer's credentials (that the customer has provided) to access the bank's website as if it were the customer. The data aggregator typically uses automated scripts to capture various data, which is then provided to the customer or a financial technology (fintech) application that serves the customer or some other business. Relevant agreements concerning customer-permissioned information sharing are generally between the customer and the financial service provider or the data aggregator and do not involve a contractual relationship with the bank.

While screen-scraping activities typically do not meet the definition of business arrangement, banks should engage in appropriate risk management

for this activity. Screen-scraping can pose operational and reputation risks. Banks should take steps to manage the safety and soundness of the sharing of customer-permissioned data with third parties. Banks' information security monitoring systems, or those of their service providers, should identify large-scale screen scraping activities. When identified, banks should take appropriate steps to identify the source of these activities and conduct appropriate due diligence to gain reasonable assurance of controls for managing this process. These efforts may include research to confirm ownership and understand business practices of the firms; direct communication to learn security and governance practices; review of independent audit reports and assessments; and ongoing monitoring of data-sharing activities.

5. What type of due diligence and ongoing monitoring should be conducted when a bank enters into a contractual arrangement in which the bank has limited negotiating power?

Some companies do not allow banks to negotiate changes to their standard contract, do not share their business resumption and disaster recovery plans, do not allow site visits, or do not respond to a bank's due diligence questionnaire. In these situations, bank management is limited in its ability to conduct the type of due diligence, contract negotiation, and ongoing monitoring that it normally would, even if the third-party relationship involves or supports a bank's critical activities.

When a bank does not receive all the information it is seeking about a third party that supports the bank's critical activities, bank management should take appropriate actions to manage the risks in that arrangement. Such actions may include

- determining if the risk to the bank of having limited negotiating power is within the bank's risk appetite.
- determining appropriate alternative methods to analyze these critical third parties (*e.g.,* use information posted on the third party's website).
- being prepared to address interruptions in delivery (*e.g.,* use multiple payment systems, generators for power, and multiple telecom lines in and out of critical sites).
- performing sound analysis to support the decision that the specific third party is the most appropriate third party available to the bank.
- retaining appropriate documentation of efforts to obtain information and related decisions.
- confirming that contracts meet the bank's needs even if they are not customized contracts.

6. How should banks structure their third-party risk management process? (Originally FAQ No. 3 in OCC Bulletin 2017–21)

There is no one way for banks to structure their third-party risk management process. OCC Bulletin 2013–29 notes that the OCC expects banks to adopt an effective third-party risk management process commensurate with the level of risk and complexity of their third-party relationships. Some banks have dispersed accountability for their third-party risk management process among their business lines. Other banks have centralized the management of the process under their compliance, information security, procurement, or risk management functions. No matter where accountability resides, each applicable business line can provide valuable input into the third-party risk management process, for example, by completing risk assessments, reviewing due diligence questionnaires and documents, and evaluating the controls over the third-party relationship. Personnel in control functions such as audit, risk management, and compliance programs should be involved in the management of third-party relationships. However, a bank structures its third-party risk management process, the board is responsible for overseeing the development of an effective third-party risk management process commensurate with the level of risk and complexity of the third-party relationships. Periodic board reporting is essential to ensure that board responsibilities are fulfilled.

7. OCC Bulletin 2013–29 defines third-party relationships very broadly and reads like it can apply to lower-risk relationships. How can a bank reduce its oversight costs for lower-risk relationships? (Originally FAQ No. 2 from OCC Bulletin 2017–21)

Not all third-party relationships present the same level of risk. The same relationship may present varying levels of risk across banks. Bank management should determine the risks associated with each third-party relationship and then determine how to adjust risk management practices for each relationship. The goal is for the bank's risk management practices for each relationship to be commensurate with the level of risk and complexity of the third-party relationship. This risk assessment should be periodically updated throughout the relationship. It should not be a one-time assessment conducted at the beginning of the relationship.

The OCC expects banks to perform due diligence and ongoing monitoring for all third-party relationships. The level of due diligence and ongoing monitoring, however, may differ for, and should be specific to, each third-party relationship. The level of due diligence and ongoing monitoring should be consistent with the level of risk and complexity posed by each third-party relationship. For critical activities, the OCC expects that due diligence and ongoing monitoring will be robust, comprehensive, and appropriately documented. Additionally, for activities that bank management determines to be low risk, management should follow the bank's board-established policies and procedures for due diligence and ongoing monitoring.

8. OCC Bulletin 2013–29 states that the OCC expects more comprehensive and rigorous oversight and management of third-party relationships that involve critical activities. What third-party relationships involve critical activities?

OCC Bulletin 2013–29 indicates that critical activities include significant bank functions (*e.g.,* payments, clearing, settlements, and custody) or significant shared services (*e.g.,* information technology) or other activities that

- could cause a bank to face significant risk if the third party fails to meet expectations.
- could have significant customer impacts.
- require significant investment in resources to implement the third-party relationship and manage the risk.
- could have a major impact on bank operations if the bank needs to find an alternate third party or if the outsourced activity has to be brought in-house.

As part of ongoing monitoring, bank management should periodically assess existing third-party relationships to determine whether the nature of the activity performed constitutes a critical activity. Some banks assign a criticality or risk level to each third-party relationship, whereas others identify critical activities and those third parties associated with the critical activities. Either approach is consistent with the risk management principles in OCC Bulletin 2013–29. Not every relationship involving critical activities is necessarily a critical third-party relationship. Mere involvement in a critical activity does not necessarily make a third party a critical third party. It is common for a bank to have several third-party relationships that support the same critical activity (*e.g.,* a major

bank project or initiative), but not all of these relationships are critical to the success of that particular activity. Regardless of a bank's approach, the bank should have a sound methodology for designating which third-party relationships receive more comprehensive and rigorous oversight and risk management.

9. How should bank management determine the risks associated with third-party relationships?

OCC Bulletin 2013–29 recognizes that not all third-party relationships present the same level of risk or criticality to a bank's operations. Risk does not depend on the size of the third-party relationship. For example, a large service provider delivering office supplies might be low risk; a small service provider in a foreign country that provides information technology services to a bank's call center might be considered high risk.

Some banks categorize their third-party relationships by similar risk characteristics and criticality (*e.g.,* information technology service providers; portfolio managers; catering, maintenance, and groundkeeper providers; and security providers). Bank management then applies different standards for due diligence, contract negotiation, and ongoing monitoring based on the risk profile of the category. By differentiating its third-party service providers by category, risk profile, or criticality, the bank may be able to gain efficiencies in due diligence, contract negotiation, and ongoing monitoring.

Bank management should determine the risks associated with each third-party relationship or category of relationship. A bank's third-party risk management should be commensurate with the level of risk and complexity of its third-party relationships; the higher the risk of the individual or category of relationships, the more robust the third-party risk management should be for that relationship or category of relationships. A bank's policies regarding the extent of due diligence, contract negotiation, and ongoing monitoring for third-party relationships should show differences that correspond to different levels of risk.

10. Is a fintech company arrangement considered a critical activity? (Originally FAQ No. 7 from OCC Bulletin 2017–21)

A bank's relationship with a fintech company may or may not involve critical bank activities, depending on a number of factors. OCC Bulletin 2013–29 provides criteria that a bank's board and management may use to determine what critical activities are. It is up to each bank's board and management to identify the critical activities of the bank and the third-party relationships related to these critical activities. The board (or committees thereof) should approve the policies and procedures that address how critical activities are identified. Under OCC Bulletin 2013–29, critical activities can include significant bank functions (*e.g.,* payments, clearing, settlements, and custody), significant shared services (*e.g.,* information technology), or other activities that

- could cause the bank to face significant risk if a third party fails to meet expectations.
- could have significant bank customer impact.
- require significant investment in resources to implement third-party relationships and manage risks.
- could have major impact on bank operations if the bank has to find an alternative third party or if the outsourced activities have to be brought in-house.

The OCC expects banks to have more comprehensive and rigorous management of third-party relationships that involve critical activities.

11. What are a bank management's responsibilities regarding a third party's subcontractors?

Third parties often enlist the help of suppliers, service providers, or other organizations. OCC Bulletin 2013–29 refers to these entities as subcontractors, which are also referred to as fourth parties.

As part of due diligence and ongoing monitoring, bank management should determine whether a third party appropriately oversees and monitors its subcontractors. OCC Bulletin 2013–29 includes information about the types of activities bank management should conduct regarding how the bank's third parties oversee and monitor subcontractors.

Third parties can fail to manage their subcontractors with the same rigor that the bank would have applied if it had engaged the subcontractor directly. To demonstrate its oversight of its subcontractors, a third party may provide a bank with independent reports or certifications. For example, as explained in FAQ No. 23, a SOC 1, type 2, report may be particularly useful, as standards of the American Institute of Certified Public Accountants require the auditor to determine and report on the effectiveness of the client's internal controls over financial reporting and associated controls to monitor relevant subcontractors. In other words, the SOC 1 report may provide bank management useful information for purposes of evaluating whether the third party has effective oversight of its subcontractors.

During due diligence, bank management should evaluate the volume and types of subcontracted activities and the subcontractors' geographic locations. Bank management should determine the third party's ability to identify and control risks from its use of subcontractors and to determine if the subcontractor's quality of operations is satisfactory and if the subcontractor has sufficient controls no matter where the subcontractor's operations reside.

Contracts should stipulate when and how the third party will notify the bank of its intent to use a subcontractor as well as how the third party will report to the bank regarding a subcontractor's conformance with performance measures, periodic audit results, compliance with laws and regulations, and other contractual obligations of the third party.

Key areas of consideration for ongoing monitoring may include

- the nature and extent of changes to the third party's reliance on, exposure to, or performance of subcontractors.
- location of subcontractors and bank data.
- whether subcontractors provide services for critical activities.
- whether subcontractors have access to sensitive customer information.
- the third party's monitoring and control testing of subcontractors.

The bank's inventory of third-party relationships should identify the third parties that use subcontractors. This is particularly important for a bank's third-party relationships that support the bank's critical activities or for higher-risk third parties.

12. When multiple banks use the same third-party service providers, can they collaborate [10] to meet expectations for managing third-party relationships specified in OCC Bulletin 2013–29? (Originally FAQ No. 4 from OCC Bulletin 2017–21)

If they are using the same service providers to secure or obtain like products or services, banks may collaborate [11] to meet certain expectations, such as performing the due diligence, contract negotiation, and ongoing monitoring responsibilities described in OCC Bulletin 2013–29. Like products and services may, however, present a different level of risk to each bank that uses those products or services, making collaboration a useful tool but insufficient to fully meet the bank's responsibilities under OCC Bulletin 2013–29. Collaboration can

leverage resources by distributing costs across multiple banks. In addition, many banks that use like products and services from technology or other service providers may become members of user groups. Frequently, these user groups create the opportunity for banks, particularly community banks, to collaborate with their peers on innovative product ideas, enhancements to existing products or services, and customer service and relationship management issues with the service providers. Banks that use a customized product or service may not, however, be able to use collaboration to fully meet their due diligence, contract negotiation, or ongoing responsibilities.

Banks may take advantage of various tools designed to help them evaluate the controls of third-party service providers. In general, these types of tools offer standardized approaches to perform due diligence and ongoing monitoring of third-party service providers by having participating third parties complete common security, privacy, and business resiliency control assessment questionnaires. After third parties complete the questionnaires, the results can be shared with numerous banks and other clients. Collaboration can result in increased negotiating power and lower costs to banks during the contract negotiation phase of the risk management life cycle.

Some community banks have joined an alliance to create a standardized contract with their common third-party service providers and improve negotiating power.

13. When collaborating to meet responsibilities for managing a relationship with a common third-party service provider, what are some of the responsibilities that each bank still needs to undertake individually to meet the expectations in OCC Bulletin 2013–29? (Originally FAQ No. 5 from OCC Bulletin 2017–21)

While collaborative arrangements can assist banks with their responsibilities in the life cycle phases for third-party risk management, each individual bank should have its own effective third-party risk management process tailored to each bank's specific needs. Some individual bank-specific responsibilities include defining the requirements for planning and termination (*e.g.,* plans to manage the third-party service provider relationship and development of contingency plans in response to termination of service), as well as

○ integrating the use of product and delivery channels into the bank's strategic planning process and ensuring consistency with the bank's internal controls, corporate governance, business plan, and risk appetite.

○ assessing the quantity of risk posed to the bank through the third-party service provider and the ability of the bank to monitor and control the risk.

○ implementing information technology controls at the bank.

○ ongoing benchmarking of service provider performance against the contract or service-level agreement.

○ evaluating the third party's fee structure to determine if it creates incentives that encourage inappropriate risk taking.

○ monitoring the third party's actions on behalf of the bank for compliance with applicable laws and regulations.

○ monitoring the third party's disaster recovery and business continuity time frames for resuming activities and recovering data for consistency with the bank's disaster recovery and business continuity plans.

14. Can a bank rely on reports, certificates of compliance, and independent audits provided by entities with which it has a third-party relationship?

In conducting due diligence and ongoing monitoring, bank management may obtain and review various reports (*e.g.,* reports of compliance with service-level agreements, reports of independent reviewers, certificates of compliance with International Organization for Standardization (ISO) standards,[12] or SOC reports).[13] The person reviewing the report, certificate, or audit should have enough experience and expertise to determine whether it sufficiently addresses the risks associated with the third-party relationship.

OCC Bulletin 2013–29 explains that bank management should consider whether reports contain sufficient information to assess the third party's controls or whether additional scrutiny is necessary through an audit by the bank or other third party at the bank's request. More specifically, management may consider the following:

○ Whether the report, certificate, or scope of the audit is enough to determine if the third-party's control structure will meet the terms of the contract.

○ Whether the report, certificate, or audit is consistent with widely recognized standards.

For some third-party relationships, such as those with cloud providers that distribute data across several physical locations, on-site audits could be inefficient and costly. The American Institute of Certified Public Accountants has developed cloud-specific SOC reports based on the framework advanced by the Cloud Security Alliance. When available, these reports can provide valuable information to the bank. The Principles for Financial Market Infrastructures are international standards for payment systems, central securities depositories, securities settlement systems, central counterparties, and trade repositories. One key objective of the Principles for Financial Market Infrastructures is to encourage clear and comprehensive disclosure by financial market utilities, which are often in third-party relationships with banks. Financial market utilities typically provide disclosures to explain how their businesses and operations reflect each of the applicable Principles for Financial Market Infrastructures. Banks that have third-party relationships with financial market utilities can rely on these disclosures. Banks can also rely on pooled audit reports, which are audits paid for by a group of banks that use the same company for similar products or services.

15. What collaboration opportunities exist to address cyber threats to banks as well as to their third-party relationships? (Originally FAQ No. 6 from OCC Bulletin 2017–21)

Banks may engage with a number of information-sharing organizations to better understand cyber threats to their own institutions as well as to the third parties with whom they have relationships. Banks participating in information-sharing forums have improved their ability to identify attack tactics and successfully mitigate cyber attacks on their systems. Banks may use the Financial Services Information Sharing and Analysis Center (FS–ISAC), the U.S. Computer Emergency Readiness Team (US–CERT), InfraGard, and other information-sharing organizations to monitor cyber threats and vulnerabilities and to enhance their risk management and internal controls. Banks also may use the FS–ISAC to share information with other banks.

16. Can a bank engage with a start-up fintech company with limited financial information? (Originally FAQ No. 8 from OCC Bulletin 2017–21)

OCC Bulletin 2013–29 states that banks should consider the financial condition of their third parties during the due diligence stage of the life cycle before the banks have selected or entered into contracts or relationships with third parties. In assessing the financial condition of a start-up or less established fintech company, the bank may consider a company's access to

funds, its funding sources, earnings, net cash flow, expected growth, projected borrowing capacity, and other factors that may affect the third party's overall financial stability. Assessing changes to the financial condition of third parties is an expectation of the ongoing monitoring stage of the life cycle. Because it may be receiving limited financial information, the bank should have appropriate contingency plans in case the start-up fintech company experiences a business interruption, fails, or declares bankruptcy and is unable to perform the agreed-upon activities or services.

Some banks have expressed confusion about whether third-party service providers need to meet a bank's credit underwriting guidelines. OCC Bulletin 2013–29 states that depending on the significance of the third-party relationship, a bank's analysis of a third party's financial condition may be as comprehensive as if the bank were extending credit to the third-party service provider. This statement may have been misunderstood as meaning a bank may not enter into relationships with third parties that do not meet the bank's lending criteria. There is no such requirement or expectation in OCC Bulletin 2013–29.

17. Some third parties, such as fintechs, start-ups, and small businesses, are often limited in their ability to provide the same level of due diligence-related information as larger or more established third parties. What type of due diligence and ongoing monitoring should be applied to these companies?

OCC Bulletin 2013–29 states that banks should consider the financial condition of their third parties during due diligence and ongoing monitoring. When third parties, such as fintechs, start-ups, and small businesses, have limited due diligence information, the bank should consider alternative information sources. The bank may consider a company's access to funds, its funding sources, earnings, net cash flow, expected growth, projected borrowing capacity, and other factors that may affect the third party's overall financial stability. Assessing changes to the financial condition of third parties is an expectation of the ongoing monitoring component of the bank's risk management. When a bank can only obtain limited financial information, the bank should have contingency plans in case this third party experiences a business interruption, fails, or declares bankruptcy and is unable to perform the agreed-upon activities or services.

Bank management has the flexibility to apply different methods of due diligence and ongoing monitoring when a company may not have the same level of corporate infrastructure as larger or more established companies. During due diligence and before signing a contract, bank management should assess the risks posed by the relationship and understand the third party's risk management and control environment. The scope of due diligence and the due diligence method should vary based on the level of risk of the third-party relationship. While due diligence methods may differ, it is important for management to conclude that the third party has a sufficient control environment for the risk involved in the arrangement.

18. How can a bank offer products or services to underbanked or underserved segments of the population through a third-party relationship with a fintech company? (Originally FAQ No. 9 from OCC Bulletin 2017–21)

Banks have collaborated with fintech companies in several ways to help meet the banking needs of underbanked or underserved consumers. Banks may partner with fintech companies to offer savings, credit, financial planning, or payments in an effort to increase consumer access. In some instances, banks serve only as facilitators for the fintech companies' products or services with one of the products or services coming from the banks. For example, several banks have partnered with fintech companies to establish dedicated interactive kiosks or automated teller machines (ATM) with video services that enable the consumer to speak directly to a bank teller. Frequently, these interactive kiosks or ATMs are installed in retail stores, senior community centers, or other locations that do not have branches to serve the community. Some fintech companies offer other ways for banks to partner with them. For example, a bank's customers can link their savings accounts with the fintech company's application, which can offer incentives to the bank's customers to save for short-term emergencies or achieve specific savings goals.

In these examples, the fintech company is considered to have a third-party relationship with the bank that falls under the scope of OCC Bulletin 2013–29.

19. What should a bank consider when entering a marketplace lending arrangement with nonbank entities? (Originally FAQ No. 10 from OCC Bulletin 2017–21)

When engaging in marketplace lending activities, a bank's board and management should understand the relationships among the bank, the marketplace lender, and the borrowers; fully understand the legal, strategic, reputation, operational, and other risks that these arrangements pose; and evaluate the marketplace lender's practices for compliance with applicable laws and regulations. As with any third-party relationship, management at banks involved with marketplace lenders should ensure the risk exposure is consistent with their boards' strategic goals, risk appetite, and safety and soundness objectives. In addition, boards should adopt appropriate policies, inclusive of concentration limitations, before beginning business relationships with marketplace lenders.

Banks should have the appropriate personnel, processes, and systems so that they can effectively monitor and control the risks inherent within the marketplace lending relationship. Risks include reputation, credit, concentrations, compliance, market, liquidity, and operational risks. For credit risk management, for example, banks should have adequate loan underwriting guidelines, and management should ensure that loans are underwritten to these guidelines. For compliance risk management, banks should not originate or support marketplace lenders that have inadequate compliance management processes and should monitor the marketplace lenders to ensure that they appropriately implement applicable consumer protection laws, regulations, and guidance. When banks enter into marketplace lending or servicing arrangements, the banks' customers may associate the marketplace lenders' products with those of the banks, thereby introducing reputation risk if the products underperform or harm customers. Also, operational risk can increase quickly if the operational processes of the banks and the marketplace lenders do not include appropriate limits and controls, such as contractually agreed-to loan volume limits and proper underwriting.

To address these risks, banks' due diligence of marketplace lenders should include consulting with the banks' appropriate business units, such as credit, compliance, finance, audit, operations, accounting, legal, and information technology. Contracts or other governing documents should lay out the terms of service-level agreements and contractual obligations. Subsequent significant contractual changes should prompt reevaluation of bank policies, processes, and risk management practices.

20. Does OCC Bulletin 2013–29 apply when a bank engages a third party to provide bank customers the ability to make mobile payments using their bank accounts, including debit and credit cards? (Originally FAQ No. 11 from OCC Bulletin 2017–21)

When using third-party service providers in mobile payment environments, banks are expected to act in a manner consistent with OCC Bulletin 2013–29. Banks often enter into business arrangements with third-party service providers to provide software and licenses in mobile payment environments. These third-party service providers also provide assistance to the banks and the banks' customers (for example, payment authentication, delivering payment account information to customers' mobile devices, assisting card networks in processing payment transactions, developing or managing mobile software (apps) or hardware, managing back-end servers, or deactivating stolen mobile phones).

Many bank customers expect to use transaction accounts and credit, debit, or prepaid cards issued by their banks in mobile payment environments. Because almost all banks issue debit cards and offer transaction accounts, banks frequently participate in mobile payment environments even if they do not issue credit cards. Banks should work with mobile payment providers to establish processes for authenticating enrollment of customers' account information that the customers provide to the mobile payment providers.

21. May a community bank outsource the development, maintenance, monitoring, and compliance responsibilities of its compliance management system? (Originally FAQ No. 12 from OCC Bulletin 2017–21)

Banks may outsource some or all aspects of their compliance management systems to third parties, so long as banks monitor and ensure that third parties comply with current and subsequent changes to consumer laws and regulations. Some banks outsource maintenance or monitoring or use third parties to automate data collection and management processes (for example, to file compliance reports under the Bank Secrecy Act or for mortgage loan application processing or disclosures). The OCC expects all banks to develop and maintain an effective compliance management system and provide fair access to financial services, ensure fair treatment of customers, and comply with consumer protection laws and regulations. Strong compliance management systems include appropriate policies, procedures, practices, training, internal controls, and audit systems to manage and monitor compliance processes as well as a commitment of appropriate compliance resources.

22. How should bank management address third-party risk management when using a third-party model or a third party to assist with model risk management?

The principles in OCC Bulletin 2013–29 are relevant when a bank uses a third-party model or uses a third party to assist with model risk management, as are the principles in OCC Bulletin 2011–12, ''Sound Practices for Model Risk Management: Supervisory Guidance on Model Risk Management.'' Accordingly, third-party models should be incorporated into the bank's third-party risk management and model risk management processes. Bank management should conduct appropriate due diligence on the third-party relationship and on the model itself.

If the bank lacks sufficient expertise in-house, a bank may decide to engage external resources (*i.e.,* a third party) to help execute certain activities related to model risk management and the bank's ongoing third-party monitoring responsibilities. These activities could include model validation and review, compliance functions, or other activities in support of internal audit. Bank management should understand and evaluate the results of validation and risk control activities that are conducted by third parties. Bank management typically designates an internal party to

- verify that the agreed upon scope of work has been completed by the third party.
- evaluate and track identified issues and ensure they are addressed.
- make sure completed work is incorporated into the bank's model risk management and third-party risk management processes.

Bank management should conduct a risk-based review of each third-party model to determine whether it is working as intended and if the existing validation activities are sufficient. Banks should expect the third party to conduct ongoing performance monitoring and outcomes analysis of the model, disclose results to the bank, and make appropriate modifications and updates to the model over time, if applicable.

Many third-party models can be customized by a bank to meet its needs. A bank's customization choices should be documented and justified as part of the validation. If third parties provide input data or assumptions, the relevance and appropriateness of the data or assumptions should be validated. Bank management should periodically conduct an outcomes analysis of the third-party model's performance using the bank's own outcomes.

Many third parties provide banks with reports of independent certifications or validations of the third-party model. Validation reports provided by a third-party model provider should identify model aspects that were reviewed, highlighting potential deficiencies over a range of financial and economic conditions (as applicable), and determining whether adjustments or other compensating controls are warranted. Effective validation reports include clear executive summaries, with a statement of model purpose and a synopsis of model validation results, including major limitations and key assumptions. Validation reports should not be taken at face value. Bank management should understand any of the limitations experienced by the validator in assessing the processes and codes used in the models.

As part of the planning and termination phases of the third-party risk management life cycle, the bank should have a contingency plan for instances when the third-party model is no longer available or cannot be supported by the third party. Bank management should have as much knowledge in-house as possible, in case the third party or the bank terminates the contract, or if the third party is no longer in business.

23. Can banks obtain access to interagency technology service providers' (TSP) reports of examination? (Originally FAQ No. 13 from OCC Bulletin 2017–21)

TSP reports of examination[14] are available only to banks that have contractual relationships with the TSPs at the time of the examination. Because the OCC's (and other federal banking regulators') statutory authority is to examine a TSP that enters into a contractual relationship with a regulated financial institution, the OCC (and other federal banking regulators) cannot provide a copy of a TSP's report of examination to financial institutions that are either considering outsourcing activities to the examined TSP or that enter into a contract after the date of examination.

Banks can request TSP reports of examination through the banks' respective OCC supervisory office. TSP reports of examination are provided on a request basis. The OCC may, however,

proactively distribute TSP reports of examination in certain situations because of significant concerns or other findings to banks with contractual relationships with that particular TSP.

Although a bank may not share a TSP report of examination or the contents therein with other banks, a bank that has not contracted with a particular TSP may seek information from other banks with information or experience with a particular TSP as well as information from the TSP to meet the bank's due diligence responsibilities.

24. Can a bank rely on a third party's Service Organization Control (SOC) report, prepared in accordance with the American Institute of Certified Public Accountants Statement on Standards for Attestation Engagements No. 18 (SSAE 18)? (Originally FAQ No. 14 from OCC Bulletin 2017–21).

In meeting its due diligence and ongoing monitoring responsibilities, a bank may review a third party's SOC 1 report prepared in accordance with SSAE 18 to evaluate the third party's client(s)' internal controls over financial reporting, including policies, processes, and internal controls. If a third party uses subcontractors (also referred to as fourth parties), a bank may find the third party's SOC 1 type 2 report particularly useful, as SSAE 18 requires the auditor to determine and report on the effectiveness of controls the third party has implemented to monitor the controls of the subcontractor. In other words, the SOC 1 type 2 report will address the question as to whether the third party has effective oversight of its subcontractors. A bank should consider whether an SOC 1 type 2 report contains sufficient information and is sufficient in scope to assess the third party's risk environment or whether additional audit or review is required for the bank to properly assess the third party's control environment.

25. How may a bank use third-party assessment services (sometimes referred to as third-party utilities)?

Third-party assessment service companies have been formed to help banks with third-party risk management, including due diligence and ongoing monitoring. These companies offer banks a standardized questionnaire with responses from a variety of third parties (particularly information technology-related companies). The benefit of this arrangement is that the third party can provide the same information to many banks using a standardized questionnaire. Banks often pay a fee to the utility to receive the questionnaire. The utility may provide other services in addition to the questionnaire. This form of collaboration can help banks gain efficiencies in due diligence and ongoing monitoring. When a bank uses a third-party utility, it has a business arrangement with the utility, and the utility should be incorporated into the bank's third-party risk management process.

Bank management should understand how the information contained within the utility report covers the specific services that the bank has obtained from the third party and meets the bank's due diligence and ongoing monitoring needs. For example, in some cases a standardized questionnaire may not be enough if the third party is supporting a critical activity at the bank, as the information requested on the questionnaire may not be specific to the bank. In these circumstances, bank management may need additional information from the third party.

26. How does a bank's board of directors approve contracts with third parties that involve critical activities?

OCC Bulletin 2013–29 indicates that a bank's board should approve contracts with third parties that involve critical activities. This statement was not meant to imply that the board must read or be involved with the negotiation of each of these contracts. The board should receive sufficient information to understand the bank's strategy for use of third parties to support products, services, and operations and understand key dependencies, costs, and limitations that the bank has with these third parties. This allows the board to understand the benefits and risks associated with engaging third parties for critical services and knowingly approve the bank's contracts. The board may use executive summaries of contracts in their review and may delegate actual approval of contracts with third parties that involve critical activities to a board committee or senior management.

27. How should a bank handle third-party risk management when obtaining alternative data from a third party?

Banks may be using or contemplating using a broad range of alternative data in credit underwriting, fraud detection, marketing, pricing, servicing, and account management.[15] For the purpose of this FAQ, alternative data mean information not typically found in the consumer's credit files at the nationwide consumer reporting agencies or customarily provided by consumers as part of applications for credit.[16]

When contemplating a third-party relationship that may involve the use of alternative data by or on behalf of the bank, bank management should:[17]

[1] As used in this bulletin, ''banks'' refers collectively to national banks, federal savings associations, and federal branches and agencies of foreign banking organizations.

[2] For more information, refer to OCC Bulletin 2019–43, ''Appraisals: Appraisal Management Company Registration Requirements.''

[3] Refer to OCC Bulletin 2003–12, ''Interagency Policy Statement on Internal Audit and Internal Audit Outsourcing: Revised Guidelines on Internal Audit and its Outsourcing.''

[4] If a bank considers these activities to be low risk, management should refer to FAQ No. 7 in this bulletin for more information about the extent of due diligence, contract negotiation, and ongoing monitoring that should be conducted for third-party relationships that support or involve low-risk bank activities.

[5] Refer to FAQ No. 11 in this bulletin for more information about a third party's subcontractors.

[6] Refer to FAQ No. 14 in this bulletin for more information on bank reliance on reports, certificates of compliance, and independent audits provided by entities with which the bank has a third-party relationship.

[7] Data aggregators are entities that access, aggregate, share, or store consumer financial account and transaction data that they acquire through connections to financial services companies. Aggregators are often intermediaries between the financial technology (fintech) applications that consumers use to access their data and the sources of data at financial services companies. An aggregator may be a generic provider of data to consumer fintech application providers and other third parties, or the aggregator may be part of a company providing branded and direct services to consumers. Refer to U.S. Department of the Treasury report ''A Financial System That Creates Economic Opportunities: Nonbank Financials, Fintech, and Innovation'' for more information on data aggregators.

[8] Refer to OCC Bulletin 2001–12, ''Bank-Provided Account Aggregation Services: Guidance to Banks'' (national banks) for more information on direct relationships. While the OCC has not made OCC Bulletin 2001–12 applicable to federal savings associations, federal savings associations may nonetheless find the information in the bulletin relevant.

[9] An API refers to a set of protocols that links two or more systems to enable communication and data exchange between them. An API for a particular routine can easily be inserted into code that uses that API in the software. An example would be the Financial Data Exchange's ''FDX API Standard.''

[10] Refer to OCC News Release 2015–1, ''Collaboration Can Facilitate Community Bank Competitiveness, OCC Says,'' January 13, 2015.

[11] Any collaborative activities among banks must comply with antitrust laws. Refer to the Federal Trade Commission and U.S. Department of Justice's ''Antitrust Guidelines for Collaborations Among Competitors.''

[12] Refer to ISO 22301:2012, ''Societal Security—Business Continuity Management Systems—Requirements,'' for more information regarding the ISO's standards for business continuity management.

[13] For more information on types of audits and control reviews, refer to appendix B of the ''Internal and External Audits'' booklet of the *Comptroller's Handbook*.

[14] The OCC conducts examinations of services provided by significant TSPs based on authorities granted by the Bank Service Company Act, 12 U.S.C. 1867. These examinations typically are

Continued

• Conduct due diligence on third parties before selecting and entering into contracts. The degree of due diligence should be commensurate with the risk to the bank from the third-party relationship.

• ensure that alternative data usage comports with safe and sound operations. Appropriate data controls include rigorous assessment of the quality and suitability of data to support prudent banking operations. Additionally, the OCC's model risk management guidance contains important principles, including those that may leverage alternative data.

• analyze relevant consumer protection laws and regulations to understand the opportunities, risks, and compliance requirements before using alternative data. Based on that analysis, data that present greater compliance risk warrant more robust compliance management. Robust compliance management includes appropriate testing, monitoring, and controls to ensure that compliance risks are understood and addressed.

• conduct ongoing monitoring on third parties in a manner and with a frequency commensurate with the risk to the bank from the third-party relationship.

• discuss its plans with an OCC portfolio manager, examiner-in-charge, or supervisory office if the use of alternative data from a third-party relationship constitutes a substantial deviation from the bank's existing business plans or material changes in the bank's use of alternative data.

Michael J. Hsu,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System

Ann Misback,

Secretary of the Board. Federal Deposit Insurance Corporation.

Dated at Washington, DC, on July 12, 2021.

James P. Sheesley,

Assistant Executive Secretary.

BILLING CODE 6210–01–P; 6714–01–P; 4810–33–P

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BILLING CODE 4810–33–6210–01–6714–01P

conducted in coordination with the Board of Governors of the Federal Reserve Board, Federal Deposit Insurance Corporation, and other banking agencies with similar authorities. The scope of examinations focuses on the services provided and key technology and operational controls communicated in the *FFIEC Information Technology Examination Handbook* and other regulatory guidance.

[15] Existing OCC and interagency guidance potentially applicable to alternative data includes ''Policy Statement on Discrimination in Lending'' (59 FR 18266 (April 15, 1994)); OCC Bulletin 1997–24, ''Credit Scoring Models: Examination Guidance;'' OCC Bulletin 2011–12, ''Sound Practices for Model Risk Management: Supervisory Guidance on Model Risk Management;'' OCC Bulletin 2013–29, ''Third-Party Relationships: Risk Management;'' and OCC Bulletin 2017–43, ''New, Modified, or Expanded Bank Products and Services: Risk Management Principles.''

[16] Refer to OCC Bulletin 2019–62, ''Consumer Compliance: Interagency Statement on the Use of Alternative Data in Credit Underwriting,'' for more information about compliance risk management considerations regarding the use of alternative data. Also refer to Consumer Financial Protection Bureau (CFPB), ''Request for Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process,'' 82 FR 11183 (February 21, 2017).

[17] The information in this list is consistent with the Interagency Policy Statement on the Use of Alternative Data in Credit Underwriting.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 7203

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA). The IRS is soliciting comments for Form 7203, S Corporation Shareholder Stock and Debt Basis Limitations.

DATES: Written comments should be received on or before September 17, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *jon.r.callahan@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: S Corporation Shareholder Stock and Debt Basis Limitations.

OMB Number: 1545–XXXX.

Form Number: 7203.

Abstract: Internal Revenue Code (IRC) Section 1366 determines the shareholder's tax liability from an S corporation. IRC Section 1367 details the adjustments to basis including the increase and decrease in basis, income items included in basis, the basis of indebtedness, and the basis of inherited stock. Shareholders will use Form 7203 to calculate their stock and debt basis, ensuring the losses and deductions are accurately claimed.

Current Actions: There are no changes being made to this form at this time.

Type of Review: New Information Collection.

Affected Public: Individuals, Tax Exempt entities, and Estates and Trusts.

Estimated Number of Respondents: 70,000.

Estimated Time per Respondent: 3 hours, 46 minutes.

Estimated Total Annual Burden Hours: 257,600 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of 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.

Approved: July 14, 2021.

Jon R. Callahan,

Tax Analyst.

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