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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 457

[Docket ID FCIC–21–0004]

RIN 0563–AC72

Common Crop Insurance Regulations; Dry Pea Crop Insurance Provisions and Dry Beans Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, U.S. Department of Agriculture (USDA).

ACTION: Correcting amendment.

SUMMARY: On June 24, 2021, the Federal Crop Insurance Corporation revised the Common Crop Insurance Regulations; Dry Pea and Dry Beans Crop Insurance Provisions. That final rule inadvertently omitted the term ''you'' in the Dry Beans Crop Insurance Provisions and is being added in this correction.

DATES: *Effective date:* August 17, 2021.

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926–7730; email *francie.tolle@usda.gov.* Persons with disabilities who require alternative means of communication should contact the USDA Target Center at (202) 720–2600 or 844–433–2774.

SUPPLEMENTARY INFORMATION:

Background

This correction is being published to correct section 2, paragraph (b)(3)(i)(A) of the Dry Beans Crop Insurance Provisions published June 24, 2021 (86 FR 33081–33085). The term ''you'' was inadvertently omitted and is being added in this correction.

List of Subjects in 7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 457 is corrected by making the following amendment:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for part 457 continues to read as follows:

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

§ 457.150 [Amended]

■ 2. In § 457.150, section 2, in paragraph (b)(3)(i)(A), add the word ''you'' after the phrase ''All types in which''.

Richard Flournoy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2021–17300 Filed 8–16–21; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0670; Project Identifier AD–2021–00849–T; Amendment 39–21691; AD 2021–17–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–800 and –900ER series airplanes. This AD was prompted by reports that several of the fittings that provide attachment between the radome and fuselage were cracked to the point of failure on airplanes modified in accordance with a certain supplemental type certificate (STC). This AD requires demodification of the STC installation on the airplane by removing the external equipment installed during the STC modification (including the radome, antenna, and associated structure), installing doubler and fasteners, and system deactivation by pulling and collaring associated circuit breakers if installed. This AD also requires inspecting the external and feed-through doublers, intercostals, skin, and frames in the area around the removed external equipment for cracking, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 17, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 17, 2021.

The FAA must receive comments on this AD by October 1, 2021.

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

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

For service information identified in this final rule, contact Astronics Armstrong Aerospace, 804 S Northpoint Blvd., Waukegan, IL 60085; telephone 847–244–4500; internet *https://www.Astronics.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0670.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0670; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Surinder Sangha, Aerospace Engineer, Propulsion & Program Management Section, FAA, Chicago ACO Branch, Room 107, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone 847–294–7010; fax 847–294–7834; email: *surinder.sangha@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA has received reports indicating that several of the fittings that provide attachment between the radome and fuselage were cracked to the point of failure. The radome to fuselage fittings were part of the ViaSat In-Flight Connectivity (IFC) System Antenna Provisions installed in accordance with FAA STC ST04096CH on Model 737–800 and –900ER series airplanes. This failure of the attachment fittings, if not addressed, could result in loss of the radome and antennae, and consequent damage to the tail and damage to the fuselage in the vicinity of the radome, which could reduce the ability of the flightcrew to maintain safe flight and landing of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Astronics Armstrong Aerospace Engineering Order, ''ViaSat In-Flight Connectivity (IFC) System DE–MOD Boeing 737–800/–900ER Series Aircraft,'' Document No. EO23–9642–02, Revision B, dated April 25, 2016. This service information specifies procedures for demodification of the STC installation by removing the external equipment (including radome, antenna, and associated structure) that was installed in accordance with FAA STC ST04096CH, and installing doubler and fasteners (de-mod kit), and system deactivation by pulling and collaring associated circuit breakers.

The FAA also reviewed Astronics Connectivity Systems and Certification Service Bulletin SB44–9642–01, dated July 8, 2021. This service information specifies procedures for inspecting the external and feed-through doublers, intercostals, skin, and frames in the area around the removed external equipment for cracking. The inspections include an external low frequency eddy current (LFEC) inspection of the skin at the alteration installation area, doubler fastener holes in the first two rows of attachments between the doubler and fuselage skin, fastener and connector hole locations, the external doublers between fasteners at the area common to the stringers, and at the area common to the frame tees; an internal high frequency eddy current (HFEC) inspection of the intercostal at the fastener locations and the frames in the area of added frame segments; an internal detailed visual inspection of the frames between stringers 3L and 3R; an open hole HFEC rotating hole inspections of the stringer fastener holes where the doublers cover the stringer; a HFEC open-hole inspection of the 4X fitting base holes common to the external doublers at the 8X AR240–1949–01 side fitting assembly locations; and an external HFEC inspection of the skin at the stringer fasteners, including all stringer fasteners which may be covered beneath the radome and adapter ring.

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

AD Requirements

This AD requires accomplishing the actions specified in the service information already described. This AD also requires repairing any crack found during the inspections.

Justification for Immediate Adoption and Determination of the Effective Date

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

There are currently no U.S.-registered airplanes affected by this AD. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3). In addition, for the foregoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include Docket No. FAA–2021–0670 and Project Identifier AD–2021–00849–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Surinder Sangha, Aerospace Engineer, Propulsion & Program Management Section, FAA, Chicago ACO Branch, Room 107, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone 847–294–7010; fax 847–294–7834; email: *surinder.sangha@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. For any affected airplane that is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Removal and installation	24 work-hours × $85 per hour = $2,040	$2,000	$4,040
Inspections	8 work-hours × $85 per hour = $680	0	680

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–17–08 The Boeing Company: Amendment 39–21691; Docket No. FAA–2021–0670; Project Identifier AD–2021–00849–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 17, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–800 and –900ER series airplanes, certificated in any category, with ViaSat In-Flight Connectivity (IFC) System Antenna Provisions installed in accordance with Astronics Armstrong Aerospace Supplemental Type Certificate (STC) ST04096CH.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports that several of the fittings that provide attachment between the radome and fuselage were cracked to the point of failure. The FAA is issuing this AD to address cracked fittings, which could result in loss of the radome and antennae, and consequent damage to the tail and damage to the fuselage in the vicinity of the radome, which could reduce the ability of the flightcrew to maintain safe flight and landing of the airplane.

(f) Compliance

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

(g) Demodification Part I (Removal of External Equipment)

Before further flight, remove external equipment (including radome, antenna, and associated structure) that was installed in accordance with STC ST04096CH. Do the removal in accordance with steps 1 through 9 of paragraph 5.2.1., of Astronics Armstrong Aerospace Engineering Order, ''ViaSat In-Flight Connectivity (IFC) System DE–MOD Boeing 737–800/–900ER Series Aircraft,'' Document No. EO23–9642–02, Revision B, dated April 25, 2016.

(h) Inspection and Repair

Before further flight after accomplishing the removal required by paragraph (g) of this AD, inspect the external and feed-through doublers, intercostals, skin, stringers, and frames in the area around the removed external equipment for any cracking in accordance with paragraph 3.3., ''Inspection,'' of Astronics Connectivity Systems and Certification Service Bulletin SB44–9642–01, dated July 8, 2021. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Demodification Part II (Installation and System Deactivation)

Before further flight after accomplishing the actions required by paragraph (h) of this AD: Install doubler and fasteners and deactivate the system (including pulling and collaring associated circuit breakers if installed) in accordance with steps 10, 11, and 12 of paragraph 5.2.1., of Astronics Armstrong Aerospace Engineering Order, ''ViaSat In-Flight Connectivity (IFC) System DE–MOD Boeing 737–800/–900ER Series Aircraft,'' Document No. EO23–9642–02, Revision B, dated April 25, 2016.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information.

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

(k) Related Information

For more information about this AD, contact Surinder Sangha, Aerospace Engineer, Propulsion & Program Management Section, FAA, Chicago ACO Branch, Room 107, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone 847–294–7010; fax 847–294–7834; email: *surinder.sangha@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 the AD specifies otherwise.

(i) Astronics Armstrong Aerospace Engineering Order, ''ViaSat In-Flight Connectivity (IFC) System DE–MOD Boeing 737–800/–900ER Series Aircraft,'' Document No. EO23–9642–02, Revision B, dated April 25, 2016.

(ii) Astronics Connectivity Systems and Certification Service Bulletin SB44–9642–01, dated July 8, 2021. The issue date of this document is identified only on page 3 of the document.

(3) For Astronics service information identified in this AD, contact Astronics Armstrong Aerospace, 804 S Northpoint Blvd., Waukegan, IL 60085; telephone 847–244–4500; internet *https://www.Astronics.com.*

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

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

Issued on August 11, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–17681 Filed 8–13–21; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0316; Project Identifier MCAI–2020–00461–E; Amendment 39–21657; AD 2021–15–10]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all GE Aviation Czech s.r.o. (GEAC) H75–200, H80–100, and H80–200 model turboprop engines. This AD was prompted by several reports of engine gas generator speed (Ng) rollbacks occurring below idle on GEAC H75–200, H80–100, and H80–200 model turboprop engines. This AD requires an inspection of a certain part number (P/N) fuel control unit (FCU) and, if deficiencies are detected, replacement of the FCU with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 21, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 21, 2021.

ADDRESSES: For service information identified in this final rule, contact GE Aviation Czech, Beranových 65 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0316.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0316; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), 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: Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; fax: (781) 238–7199; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GEAC H75–200, H80–100, and H80–200 model turboprop engines. The NPRM published in the **Federal Register** on April 20, 2021 (86 FR 20465). The NPRM was prompted by several reports of engine gas generator speed (Ng) rollbacks occurring below idle on GEAC H75–200, H80–100, and H80–200 model turboprop engines. The NPRM proposed to require an inspection of a certain P/N FCU and, if deficiencies are detected, replacement of the FCU with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2020–0082, dated April 1, 2020 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Several occurrences have been reported of engine gas generator speed (Ng) rollbacks below idle on engines equipped with an affected part.
>
> The investigation determined that, during these events, the engine control lever (ECL) was set to idle, and identified as contributing factors specific environmental temperatures, possibly in combination with a high power off-take. The idle setting may be used in flight, in particular during the approach phase.
>
> This condition, if not detected and corrected, may lead to loss of engine power and eventually, on a single engine aeroplane, possibly result in loss of control.
>
> To address this potential unsafe condition, GEAC issued the ASB providing applicable instructions.

You may obtain further information by examining the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0316.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE Aviation Czech Alert Service Bulletin (ASB) No. ASB–H80–73–00–00–0052[00]/ASB–H75–73–00–00–0022[00] (single document), Revision 00, dated February 6, 2020. The service information specifies procedures for performing a functional inspection of the FCU, P/N LUN 6590.07–8, and replacing the FCU. This service information is reasonably available because the interested parties have access to it through their normal

course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 33 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Functional Inspection of FCU	0.50 work-hours × $85 per hour = $42.50	$0	$42.50	$1,402.50
Replace FCU	4 work-hours × $85 per hour = $340	25,000	25,340	836,220

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 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:

2021–15–10 GE Aviation Czech s.r.o. (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Amendment 39–21657; Docket No. FAA–2021–0316; Project Identifier MCAI–2020–00461–E.

(a) Effective Date

This airworthiness directive (AD) is effective September 21, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GE Aviation Czech s.r.o. (GEAC) (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) H75–200, H80–100, and H80–200 model turboprop engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7321, Fuel Control/Turbine Engines.

(e) Unsafe Condition

This AD was prompted by several reports of engine gas generator speed (Ng) rollbacks below idle on GEAC H75–200, H80–100, and H80–200 model turboprop engines with a fuel control unit (FCU), part number (P/N) LUN 6590.07–8, installed. The FAA is issuing this AD to prevent engine Ng rollbacks below idle on engines equipped with an FCU, P/N LUN 6590.07–8. The unsafe condition, if not addressed, could result in loss of engine power and loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 100 flight hours (FHs) after the effective date of this AD, and thereafter at intervals not to exceed 100 FHs since the previous inspection, perform a functional inspection of the FCU, P/N LUN 6590.07–8, using the Accomplishment Instructions, paragraph 2.1.1, Ground Check Procedure, of GE Aviation Czech Alert Service Bulletin No. ASB–H80–73–00–00–0052[00]/ASB–H75–73–00–00–0022[00] (single document), Revision 00, dated February 6, 2020 (the ASB).

(2) If, during any functional inspection required by paragraph (g)(1) of this AD, the engine Ng is:

(i) Equal to or greater than 57% up to and including 60%, then no further action is required.

(ii) Equal to or greater than 55% but lower than 57%, then follow the steps 1 through 3 under ''Ng speed is equal to or above 55% and below 57%'' in the Accomplishment Instructions, paragraph 2.1.2, Ground check results evaluation, of the ASB.

(iii) Below 55%, then follow steps 1 and 2 under ''Ng speed is below 55%'' in the Accomplishment Instructions, paragraph 2.1.2, Ground check results evaluation, of the ASB.

Note 1 to paragraph (g)(2): In the Accomplishment Instructions, paragraph 2.1.2, of the ASB, where the ASB states ''Do steps 1 thru 8 after the FCU adjustment,'' do steps 1 through 7 of the Accomplishment Instructions, paragraph 2.1.1, in the ASB.

(3) During the next engine overhaul, or within 44 months, whichever occurs first after the effective date of this AD, remove the FCU, P/N LUN 6590.07–8, and replace it with a part eligible for installation.

(h) Installation Prohibition

After the effective date of this AD, do not install an FCU, P/N LUN 6590.07–8, onto any engine.

(i) Definition

For the purpose of this AD, a part eligible for installation is an FCU, P/N LUN 6590.71–8.

(j) Terminating Action

Installing a part eligible for installation onto an engine as required by paragraph (g)(2) or (3) of this AD, as applicable, constitutes terminating action for the functional inspections required by paragraph (g)(1) of this AD for that engine.

(k) No Reporting Requirements

The reporting requirements specified in paragraph 2.1.2 of the ASB are not required by this AD.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(m) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; fax: (781) 238–7199; email: *barbara.caufield@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0082, dated April 1, 2020, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0316.

(n) Material Incorporated by Reference

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

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

(i) GE Aviation Czech Alert Service Bulletin No. ASB–H80–73–00–00–0052[00]/ASB–H75–73–00–00–0022[00] (single document), Revision 00, dated February 6, 2020.

(ii) [Reserved]

(3) For GE Aviation Czech service information identified in this AD, contact GE Aviation Czech, Beranových 65 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

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

Issued on July 15, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–17519 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 210811–0161]

RIN 0648–BG01

Designation of Wisconsin Shipwreck Coast National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notification of effective date of final rule; technical amendment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is providing notice that the final rule published on June 23, 2021, to designate Wisconsin Shipwreck Coast National Marine Sanctuary (WSCNMS) became effective on August 16, 2021. NOAA is also amending the WCSNMS regulations to reflect the effective date.

DATES: The final rule to designate Wisconsin Shipwreck Coast National Marine Sanctuary, which was published at 86 FR 32737 on June 23, 2021, is effective August 16, 2021. The technical amendment in this document is effective August 16, 2021.

FOR FURTHER INFORMATION CONTACT: Russ Green, Regional Coordinator, Office of National Marine Sanctuaries at 920–459–4425, *russ.green@noaa.gov,* or Wisconsin Shipwreck Coast National Marine Sanctuary, One University Drive, Sheboygan, WI 53081, Attn: Russ Green, Regional Coordinator.

SUPPLEMENTARY INFORMATION: Pursuant to Section 304(b) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(b)), NOAA published the designation and final regulations to implement the designation of WSCNMS on June 23, 2021 (86 FR 32737). As required by the NMSA, the designation and regulations would become effective following the close of a review period of 45 days of continuous session of Congress beginning on the date of publication. The regulations are effective on August 16, 2021. Section 922.216(a) is amended to reflect the effective date of August 16, 2021.

As discussed in the final rule, the regulations at § 922.213(a)(2), which prohibit grappling into or anchoring on shipwreck sites, are stayed and will not become effective until October 1, 2023.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Historical preservation, Indians, Intergovernmental relations, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research, Wildlife.

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service.

Accordingly, for the reasons set forth above, NOAA amends part 922, title 15 of the Code of Federal Regulations as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

■ 1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart T—Wisconsin Shipwreck Coast National Marine Sanctuary

§ 922.216 [Amended]

■ 2. Amend § 922.216 in paragraph (a) by adding ''August 16, 2021,'' before the phrase ''the effective date of sanctuary designation''.

[FR Doc. 2021–17628 Filed 8–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

[Docket No. USPC–2021–02]

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The United States Parole Commission is revising its regulations to permit a single commissioner to reopen a DC Code case and retard the parole effective date for up to 120 days when the U.S. Parole Commission receives

information that the prisoner has committed new disciplinary infractions.

DATES: This regulation is effective August 17, 2021. Comments due on or before October 18, 2021.

ADDRESSES: Submit your comments, identified by docket identification number USPC–2021–02 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

2. *Mail:* Office of the General Counsel, U.S. Parole Commission, attention: USPC Rules Group, 90 K Street NE, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Helen H. Krapels, General Counsel, U.S. Parole Commission, 90 K Street NE, Third Floor, Washington, DC 20530, telephone (202) 346–7030. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: Parole Commission is publishing an interim rule with a request for comments which would permit a single commissioner to reopen the case of a parole eligible DC Code offender and retard the parole effective date for up to 120 days when the Commission receives information that the prisoner has committed new disciplinary infractions. Currently, under 28 CFR 2.86(b), two commissioner votes are needed to take this action. One commissioner can already reopen and retard a case for up to 120 days without a hearing for release planning purposes, *i.e.,* to develop a release plan, or obtain placement in a Residential Re-entry Center, and changing the procedure to one commissioner is consistent with the voting rules for U.S. Code sentenced prisoners. This action, as with other decisions to retard a parole date by a limited period of time without conducting a hearing, allows the Commission the flexibility to take prompt action to impose a short sanction for minor misconduct, but conserve the decision to release the prisoner on parole. With many prisoners transitioning to the community through Residential Re-entry Centers earlier and more frequently, there is a benefit to permitting one commissioner to make the decision to sanction misconduct on the record with minimal disruption to the release planning process.

The Commission is promulgating this rule as an interim rule and is providing a 60-day period for public comment. The amended rule will take effect upon publication in the **Federal Register**.

Executive Orders 12866 and 13563

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulation Planning and Review,'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13565, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation. The Commission has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications requiring a Federalism Assessment.

Regulatory Flexibility Act

This rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local, or tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and they will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E–Congressional Review Act)

This rule is not a ''major rule'' as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E–Congressional Review Act, now codified at 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on the ability of United States-based companies to compete with foreign-based companies. Moreover, this is a rule of agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties, and does not come within the meaning of the term ''rule'' as used in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

The Interim Rule

Accordingly, the U.S. Parole Commission amends 28 CFR part 2 as follows:

PART 2—[REVISED]

■ 1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

■ 2. Revise § 2.86 (b) to read as follows:

§ 2.86 Release on parole; rescission for misconduct.

* * * * *

(b) The Commission may reconsider any grant of parole prior to the prisoner's actual release on parole, and may advance or retard a parole effective date or rescind a parole date previously granted based upon the receipt of any new and significant information concerning the prisoner including disciplinary infractions. A Commissioner may retard a parole date for disciplinary infractions (*e.g.,* to permit the use of graduated sanctions) for up to 120 days without a hearing, in addition to any retardation ordered under § 2.83(d).

* * * * *

Patricia K. Cushwa,

Chairman (Acting), U.S. Parole Commission.

[FR Doc. 2021–16448 Filed 8–16–21; 8:45 am]

BILLING CODE 4410–31–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

[Docket No. USPC–2021–01]

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The United States Parole Commission is revising its regulations to

eliminate a policy of imposing the maximum permissible term of supervised release as a consequence of the revocation of an earlier supervised release term for offenders sentenced under the D.C. Code.

DATES: This regulation is effective August 17, 2021. Comments due on or before September 16, 2021.

ADDRESSES: Submit your comments, identified by docket identification number USPC–2021–01 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

2. *Mail:* Office of the General Counsel, U.S. Parole Commission, attention: USPC Rules Group, 90 K Street NE, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Helen H. Krapels, General Counsel, U.S. Parole Commission, 90 K Street NE, Third Floor, Washington, DC 20530, telephone (202) 346–7030. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: Since 2000, the Commission has maintained a general policy at 28 CFR 2.218(e), that it would impose the maximum permissible term of supervised release as a consequence of the revocation of an earlier supervised release term for offenders sentenced under the D.C. Code. The policy was based on the judgment that, for most cases, a supervised release violator has, by virtue of committing violations that are serious enough to justify revocation, shown the need for further supervision to the limits allowed by law.

Based upon its experience with the D.C. Code sentenced supervised releasees for over 20 years, the Commission has determined that this policy should be repealed. Under the reviewed regulation the Commission will retain the discretion to impose the maximum permissible term when it finds that the offender would benefit from a lengthier period of supervision, but there will no longer be a policy guiding that decision.

The Commission is promulgating this rule as an interim rule and is providing a 30-day period for public comment. The revised rule will take effect upon publication in the **Federal Register**.

Executive Orders 12866 and 13563

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulation Planning and Review,'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13565, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation. The Commission has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications requiring a Federalism Assessment.

Regulatory Flexibility Act

This rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local, or tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and they will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E–Congressional Review Act)

This rule is not a ''major rule'' as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E–Congressional Review Act, now codified at 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on the ability of United States-based companies to compete with foreign-based companies. Moreover, this is a rule of agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties, and does not come within the meaning of the term ''rule'' as used in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

The Interim Rule

Accordingly, the U. S. Parole Commission amends 28 CFR part 2 as follows:

PART 2—[AMENDED]

■ 1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

■ 2. Revise § 2.218(e) to read as follows:

§ 2.218 Revocation decisions.

* * * * *

(e) If the Commission imposes a new term of imprisonment that is equal to the maximum term of imprisonment authorized by law or, in the case of a subsequent revocation, that uses up the remainder of the maximum term of imprisonment by law, the Commission may not impose a further term of supervised release.

* * * * *

Patricia K. Cushwa,

Chairman (Acting), U.S. Parole Commission.

[FR Doc. 2021–16447 Filed 8–16–21; 8:45 am]

BILLING CODE 4410–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0652]

RIN 1625–AA00

Safety Zone; Lake Michigan Filming Event, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing all navigable waters on Lake Michigan within a small area near the northeast corner of Navy Pier in Chicago, Illinois. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a filming event. Mariners are urged to use caution when transiting the area and to stay east of the marine event. During the enforcement period listed below, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port

Lake Michigan or a designated representative.

DATES: This rule is effective from 7 a.m. through 8 p.m. on August 17, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0652 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 LT James Fortin, Marine Safety Unit Chicago, U.S. Coast Guard; telephone: (630) 986–2155, email: *D09-DG-MSUChicago-Waterways@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 doing so would be impracticable. The Coast Guard did not receive the final details for this event until there was insufficient time remaining before the event to publish a NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with the filming event occurring on August 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**. For the same reasons discussed in the preceeding paragraph, waiting for a 30-day notice period to run would be impracticable.

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). From 7 a.m. through 8 p.m. on August 17, 2021, a filming event involving floating debris will take place on Lake Michigan near the northeast corner of Navy Pier in Chicago, Illinois. The Captain of the Port Lake Michigan has determined that the floating debris will pose a significant risk to public safety and property. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the filming event is taking place.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 7 a.m. through 8 p.m. on August 17, 2021. The safety zone will encompass all navigable waters on Lake Michigan within a rectangle bounded by a line drawn beginning at the northeast corner of Navy Pier, then extending north 150 feet, then 500 feet west, then 150 feet south, then east back to the point of origin. The duration of the zone is intended to protect personnel, vessels, and the marine environment on the navigable waters of Lake Michigan. Mariners are urged to use caution when transiting the area and are urged to stay north of the marine event. No vessel or person will be permitted to enter the safety zone without obtaining permission from the Captain of the Port Lake Michigan 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 size and duration of the safety zone. Local industry partners in the area have been notified of the marine event and have been made aware that traffic must stay north of the marine event. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM Channel 16, on scene designated representatives notifying boaters of the regulated area, and Local 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 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 lasting 13 hoursencompassing all navigable waters on Lake Michigan within a rectangle bounded by a line drawn near the northeast corner of Navy Pier in Chicago, Illinois. 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.T09–065 to read as follows:

§ 165.T09–0652 Safety Zone; Lake Michigan, Chicago, IL.

(a) *Location.* The following area is a safety zone: All navigable waters on Lake Michigan within a rectangle bounded by a line drawn betinning at the northeast corner of Navy Pier, then extending north 150 feet, then 700 feet west, then 150 feet south, then east back to the point of origin.

(b) *Enforcement period.* The safety zone will be regulated as described in paragraph (a) is effective from 7 a.m. through 8 p.m. on August 17, 2021.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Lake Michigan in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 414–747–7190 or a designated representative via VHF–FM radio on Channel 16, to request authorization. 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.

Dated: August 11, 2021.

Donald P. Montoro,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2021–17616 Filed 8–16–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG–2021–0610

RIN 1625–AA00

Safety Zone, Recurring Events in Captain of the Port Duluth—Bridgefest Regatta Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will enforce a safety zone for the Bridgefest Regatta Fireworks in Houghton, MI. This action is necessary to protect participants and spectators during the Bridgefest Regatta Fireworks. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or their designated on-scene representative.

DATES: This rule is effective from 9:15 p.m. through 9:45 p.m. on September 4, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0610 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 notice of enforcement, call or email LTJG Joseph R. McGinnis, telephone 218–725–3818, email *DuluthWWM@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. The event already has established dates in 33 CFR 165.943 Table 1, and typically takes place in mid-June. However, this year the event will take place in September. The impact of organizer budgeting constraints in June, 2021 prevented the event from occurring within the timeframe published in the **Federal Register**. Thus, the Safety Zone must be published as a Temporary Final Rule this year because a Notice of Enforcement cannot be used to enforce a rule this far outside of the dates approved in the Federal Registrar. We must establish this safety zone by September 4, 2021 in order to protect the public from the hazards associated with a fireworks event.

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 a triggering event from the Bridgefest Regatta Fireworks.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 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. 00170.1, Revision No. 01.2. The Captain of the Port Duluth (COTP) has determined that potential hazards associated with a firework triggering event on September 4, 2021, will be a safety concern for anyone within a 1120 foot radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the event occurs.

IV. Discussion of the Rule

This rule establishes a safety zone from 9:15 p.m. through 9:45 p.m. on September 4, 2021. All waters of the Keweenaw Waterway in Hancock, MI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 47°07′22″ N, 088°35′28″ W. 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 fact that there is little commercial traffic on the Portage Canal and the size of the area being enforced is small enough to allow vessels to transit safely but must be aware of their surroundings. Coast Guard can be contacted VHF Channel 16 for any discrepencies or hazards found during the event.

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 near 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.

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. 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 all waters of the Keweenaw Waterway in Hancock, MI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 47°07′22″ N, 088°35′28″ W. There is no fauna, flora, or ecosystem of concern that is in the vicinity of the display that will be catastrophically effected during a 30 minute firework show. It is categorically excluded from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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; 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.T08–0610 to read as follows:

§ 165.T08–610 Safety Zone, Recurring Events in Captain of the Port Duluth—Bridgefest Regatta Fireworks.

(a) *Location.* The following area is a temporary safety zone: All waters of the Keweenaw Waterway in Hancock, MI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 47°07′22″ N, 088°35′28″ W.

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol

Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Duluth (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) is prohibited unless authorized by the Captain of the Port, Duluth or his designated representative.

(2) Before a vessel operator may enter or operate within the safety zone, they must obtain permission from the Captain of the Port, Duluth, or a designated representative via VHF Channel 16 or telephone at (906) 635–3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port, Duluth or a designated representative.

(d) *Enforcement period.* This section will be enforced from 9:15 p.m. through 9:45 p.m. on September 4, 2021.

Dated: August 6, 2021.

F.M. Smith,

CDR, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 2021–17238 Filed 8–16–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0303]

RIN 1625–AA00

Safety Zone; Maumee River, Toledo, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters directly surrounding the northern half of the I–75 Bridge over the Maumee River. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by demolition of the bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit.

DATES: This rule is effective from August 23, 2021, through August 27, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0303 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Jacob Haan, Waterways Management, Marine Safety Unit Toledo, Coast Guard; telephone (419) 418–6040.

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 the party conducting the work notified the Coast Guard with insufficient time to accommodate the comment period. It is impracticable to publish an NPRM because we must establish this safety zone by August 23, 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 replacing the power lines.

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 Detroit (COTP) has determined that potential hazards associated with the bridge demolition starting August 23, 2021, will be a safety concern for anyone transiting under the bridge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being demolished.

IV. Discussion of the Rule

This rule establishes a safety zone on August 23, 2021 through August 27, 2021. The safety zone will be enforced Monday through Friday from 7 a.m. until 5 p.m. The safety zone will cover all navigable waters from surface to bottom, below the old Michael V. DiSalle Memorial (I–75) Bridge located at 41°37′31.2″ N 83°32′31.1″ W. A marked 100 foot wide channel will be provided for vessels to pass through the demolition area. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the bridge is being demolished. 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 size, location, duration, and time-of-day of the safety zone. Vessel traffic should not be influenced by the safety zone, and will be able to pass through the safety zone in a marked channel marked by double red lights.

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 safety zone that will prohibit entry into the waters directly underneath the Michael V. DiSalle Memorial (I–75) Bridge while it is demolished. It is categorically excluded from further review under paragraph L[60(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 record keeping 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.T09–0303 to read as follows:

§ 165.T09–0303 Safety Zone; Maumee River, Toledo, OH.

(a) *Location.* The following area is a safety zone: The safety zone will cover all navigable waters from surface to bottom, underneath the old Michael V. DiSalle Memorial (I–75) Bridge located at 41°37′31.2″ N 83°32′31.1″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his or her designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated representative.

(3) The ''designated representative'' of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on his behalf. The designated representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit or his designated representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his designated representative to obtain permission to do so at least 30 minutes prior to transit. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Detroit or his designated representative.

(c) *Enforcement period.* This section will be enforced from August 23, 2021, through August 27, 2021, from 7 a.m. until 5 p.m.

Dated: August 10, 2021.

Brad W. Kelly,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2021–17570 Filed 8–16–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0496]

RIN 1625–AA00

Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Patapsco River. The safety zone is needed to protect personnel, vessels, and the marine environment on these navigable waters at Baltimore, MD, on September 5, 2021, (with alternate date of September 6, 2021) from potential hazards during a fireworks display to commemorate the Labor Day holiday. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 7:30 p.m. on September 5, 2021, through 10:30 p.m. on September 6, 2021. This rule will be enforced from 7:30 p.m. until 10:30 p.m. on September 5, 2021, or those same hours on September 6, 2021, in the case of inclement weather on September 5, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0496 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. Ron Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
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 we must take immediate action to establish this safety zone by September 5, 2021, to respond to potential safety hazards associated with the the fireworks display. Potential safety hazards include the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. Event planners did not notify the Coast Guard of details of the event until July 29, 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 fireworks display.

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, Maryland-National Capital Region (COTP) has determined that potential hazards associated with the fireworks to be used in this September 5, 2021, display will be a safety concern for anyone near these fireworks barges. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled event.

III. Discussion of the Rule

This rule establishes a temporary safety zone from 7:30 p.m. on September 5, 2021, to 10:30 p.m. on September 6, 2021. The safety zone will have two locations. These areas are ''Northwest Harbor'' and ''Inner Harbor.''

Northwest Harbor safety zone will cover all navigable waters of the Patapsco River within 800 feet of the fireworks barge in approximate position latitude 39°16′36.7″ N, longitude 076°35′53.8″ W, located northwest of the Domino Sugar refinery wharf at Baltimore, MD.

Inner Harbor safety zone will cover all navigable waters of the Patapsco River within 300 feet of the fireworks barge in approximate position latitude 39°17′01″ N, longitude 076°36′31″ W, located approximately 320 feet southwest of Inner Harbor pier 3 at Baltimore, MD.

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the scheduled 8:30 to 8:45 p.m. 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 size, duration, and time-of-day of the safety zone, which will impact small designated areas of the Patapsco River for 3 hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

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 safety zone lasting only 3 hours that will prohibit entry within a portion of the Patapsco 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. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T05–0496 to read as follows:

§ 165.T05–0496 Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD.

(a) *Locations.* The following areas are a safety zone: These coordinates are based on datum NAD 83.

(1) Northwest Harbor safety zone. All navigable waters of the Patapsco River, within 800 feet of the fireworksbarge in approximate position latitude 39°16′36.7″ N, longitude 076°35′53.8″ W, located northwest of the Domino Sugar refinery wharf at Baltimore, MD.

(2) Inner Harbor safety zone. All navigable waters of the Patapsco River, within 300 feet of the fireworks barge in approximate position latitude 39°17′01″ N, longitude 076°36′31″ W, located approximately 320 feet southwest of Inner Harbor pier 3 at Baltimore, MD.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

(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, contact the COTP or the COTP's representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) 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.

(d) *Enforcement officials.* 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 periods.* This section will be enforced from 7:30 p.m. to 10:30

p.m. on September 5, 2021. If necessary due to inclement weather on September 5, 2021, it will be enforced from 7:30 p.m. to 10:30 p.m. on September 6, 2021.

Dated: August 9, 2021.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2021–17402 Filed 8–16–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2021–0250; FRL–8860–02–R1]

Air Plan Approval; Maine and New Hampshire; 2015 Ozone NAAQS Interstate Transport Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving SIP revisions submitted by the States of Maine and New Hampshire as meeting the Clean Air Act (CAA) requirement that each State Implementation Plan (SIP) contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on August 17, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2021–0250. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109—3912, tel. (617) 918–1684, email *simcox.alison@epa.gov.*

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

Table of Contents

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

I. Background and Purpose

On June 10, 2021, EPA published a Notice of Proposed Rulemaking (NPRM) for the States of Maine and New Hampshire. *See* 86 FR 30854.

The NPRM proposed approval of Maine and New Hampshire SIP revisions that address the CAA requirement prohibiting emissions from each of these states, considered separately, from adversely affecting air quality in other states for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The SIP revisions were submitted to EPA by Maine on February 6, 2020, and by New Hampshire on September 5, 2018. The rationale for EPA's proposed action is given in the NPRM. EPA received no public comments on the NPRM.

As part of our rationale for approving the Maine and New Hampshire SIPs in the proposal, EPA relied on historical trends in National Emissions Inventory (NEI) data. The data demonstrate a downward trend in emissions in Maine and New Hampshire, adds support to the air quality analyses presented in the proposal for each state, and indicates that the contributions from emissions from sources in Maine and New Hampshire to ozone receptors (*i.e.,* air quality monitors) in downwind states will continue to decline. For each state, the data indicate that contributions will remain below one percent of the NAAQS. Since the publication of the proposed approval, EPA has made minor updates to the NEI data for the years 2017 through 2019. As a result of these updates, reported emissions during these years for both New Hampshire and Maine have been slightly reduced. These minor updates do not impact our decision to approve SIPs for each of these states, nor do they change our rationale for doing so, as the reduced emissions continue to support our approval decision. We have included the updated emissions data in the docket for this action.[1]

II. Final Action

EPA is approving, as revisions to the Maine and New Hampshire SIPs, each state's SIP revisions, submitted on February 6, 2020, and September 5, 2018, respectively. These revisions are approved as meeting CAA section 110(a)(2)(D)(i)(I) requirements that emissions from each state, considered separately, do not contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

III. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

[1] *See* ''2005 thru 2019 + 2021_2023_2028 Annual State Tier 1 Emissions_v3'' available in the docket for this action.

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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

List of Subjects in 40 CFR Part 52

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

Dated: August 11, 2021.

Deborah Szaro,

Acting Regional Administrator, EPA Region 1.

[FR Doc. 2021–17543 Filed 8–16–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0618 and EPA–R04–OAR–2019–0619; FRL–8839–02–R4]

Air Plan Approval; TN; Removal of Vehicle I/M Program for the Middle Tennessee and Hamilton County Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), through letters dated February 26, 2020. Specifically, EPA is approving the removal of Tennessee's motor vehicle inspection and maintenance (I/M) program requirements for Davidson, Sumner, Rutherford, Williamson and Wilson Counties in Tennessee (also known as the Middle Tennessee Area) and Hamilton County (also known as the Chattanooga Area), from the federally-approved SIP. EPA is approving the February 26, 2020, SIP revisions to remove the I/M program requirements for the aforementioned areas from the federally-approved SIP because Tennessee's requests are consistent with the Clean Air Act (CAA or Act) and applicable regulations.

DATES: This rule is effective on September 16, 2021.

ADDRESSES: EPA has established dockets for these actions under Docket Identification No. EPA–R04–OAR–2019–0618 and EPA–R04–OAR–2019–0619 at *http://www.regulations.gov.* All documents in the dockets are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* 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 can either be retrieved electronically via *www.regulations.gov* or in hard copy at 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. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Chief, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is approving changes to the Tennessee SIP that were provided to EPA under cover letters dated February 26, 2020.[1] Specifically, the State requested that Tennessee Air Pollution Control Regulations (TAPCR) 1200–03–29 and Davidson County Regulation 8 be removed from the Tennessee SIP.[2] In addition, Tennessee requested that EPA remove the requirements for the Middle Tennessee Area [3] [4] and Hamilton County to implement an I/M program as part of the Early Action Compact (EAC) that was approved by EPA into the non-regulatory portion of the Tennessee SIP on August 26, 2005. *See* 70 FR 50199. EPA is approving these requests because the SIP revisions are consistent with the CAA, including section 110(l).

II. Background

On May 15, 2018, a Tennessee law was signed that states that ''no

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[1] EPA officially received Tennessee's I/M SIP revisions on February 27, 2020.

[2] The State's I/M program at TAPCR 1200–03–29 covers Hamilton County in addition to Sumner, Rutherford, Williamson and Wilson Counties. Throughout this rule, where EPA uses the phrase ''I/M program,'' the Agency is referring to the State's I/M program in both the Middle Tennessee Area and Hamilton County, and the Davidson County I/M program unless otherwise noted.

[3] In December 2002, the Middle Tennessee Area entered into EPA's EAC program. As part of the EAC for the Middle Tennessee Area, the I/M program was identified as an existing control strategy in the SIP.

[4] Throughout this final rulemaking, unless otherwise noted, where the Middle Tennessee Area is referenced EPA is intending for this to mean the area covering Davidson, Sumner, Rutherford, Williamson and Wilson Counties.

inspection and maintenance program shall be employed in this state on or after the effective date of this act.'' *See* Tenn. Code Ann. section 68–201–119. The Tennessee law states that it ''shall take effect [120] calendar days following the date on which the [EPA] approves a revised state implementation plan. . . .'' *See* Motor Vehicles—Inspection and Inspectors—Air Pollution, 2018 Tennessee Laws Pub. Ch. 953 (H.B. 1782). Accordingly, Tennessee submitted the February 26, 2020, SIP revisions requesting that EPA remove the provisions that implement an I/M program for the Middle Tennessee Area and for Hamilton County from the Tennessee SIP.[5]

EPA published notices of proposed rulemaking (NPRMs) on June 8, 2020, and June 11, 2020, responding to Tennessee's February 26, 2020, SIP revisions requesting that EPA approve removal of the I/M program from the Tennessee SIP for the Middle Tennessee Area and for Hamilton County, respectively. *See* 85 FR 35037 and 85 FR 35607. The June 8, 2020, and June 11, 2020, NPRMs (hereinafter referred to as the June 2020 NPRMs) were based on EPA's proposed findings that the removal of the I/M program from the Tennessee SIP for the Middle Tennessee Area and for Hamilton County will not interfere with attainment or maintenance of any national ambient air quality standards (NAAQS or standards) or with any applicable requirements of the CAA. *See* EPA's June 2020 NPRMs. Comments were due on July 8, 2020, and July 13, 2020, respectively. Adverse comments were received on the June 2020 NPRMs and are addressed in Section IV of this final rulemaking.

On April 22, 2021, EPA published a supplemental notice of proposed rulemaking (hereinafter referred to as the April 2021 SNPRM) to seek public comment on the Agency's additional and clarified technical rationale related to the proposed approval of Tennessee's February 26, 2020, SIP revisions. *See* 86 FR 21248. The April 2021 SNPRM proposed to affirm that the Hamilton County and Middle Tennessee areas would continue to attain and maintain the NAAQS after removal of the I/M program, and to rely on an emissions inventory comparison to inform its determination that both areas would continue to attain and maintain the ozone and carbon monoxide (CO) NAAQS. *See* 86 FR 21248. In the April 2021 SNPRM, EPA further proposed to conclude that the removal of the I/M program will not interfere with the ability of other states to attain and maintain the 2008 ozone NAAQS under the good neighbor provision of the CAA and provided additional information related to that conclusion. *See* 86 FR 21248. Comments on the April 2021 SNPRM were due May 24, 2021. Adverse comments were also received on the April 2021 SNPRM and are addressed in Section IV of this final rulemaking.

As mentioned above, in this action, EPA is responding to adverse comments received of the June 2020 NPRMs. *See* Section IV of this final rule. Further, as relevant, EPA is responding to additional comments received on the April 2021 SNPRM and is finalizing the removal of the I/M program from Tennessee's SIP for the Middle Tennessee Area and for Hamilton County. EPA chose to issue one final rulemaking for all three proposals. *See* Section IV of this final rule.

III. Summary of EPA's Analysis

EPA's CAA section 110(l) non-interference demonstration supporting approval of Tennessee's SIP revisions seeking removal of the I/M program in Hamilton County and the Middle Tennessee Area focuses on ozone (through its precursors nitrogen oxides (NO_X) and volatile organic compounds (VOC)) and carbon monoxide (CO), the criteria pollutants addressed by I/M programs.[6] I/M programs are not designed to address lead and sulfur dioxide (SO_2) emissions, and nitrogen dioxide (NO_2) is captured generally through consideration of NO_X impacts. While EPA considers NO_X, VOCs, ammonia, and SO_2 as precursors for particulate matter (PM), PM formation in Tennessee is dominated by emissions of SO_2, reacting in the atmosphere to form sulfates, and not by emissions of NO_X, VOCs, or ammonia. However, NO_X and VOC increases are considered through the analysis for ozone. Although Tennessee is NO_X-limited[7] for ozone formation, EPA also evaluated VOC emissions to be environmentally conservative in its action.

EPA used an emissions inventory comparison to inform its determination of whether Hamilton County and the Middle Tennessee Area would continue to attain and maintain the ozone and CO NAAQS after removal of the I/M program. As explained in the April 2021 SNPRM, Tennessee chose 2022 as the future year for the State's non-interference demonstrations.[8] Tennessee's non-interference demonstration utilized EPA's Motor Vehicle Emission Simulator (MOVES) modeling system, specifically MOVES2014b, to estimate ozone precursor emissions for mobile sources—both on-road and non-road. In general, an emissions comparison approach is a reasonable and valid approach to determining whether an area removing an I/M program can maintain the NAAQS and is very similar to the maintenance demonstrations that support the redesignations of areas from nonattainment to attainment and 10-year maintenance plans that are required for redesignated areas. EPA compared future year emissions (following the removal of the I/M program) to emissions in a base year with an attaining design value.[9] If the total future year emissions for the relevant pollutant(s)/precursor(s) are less than the total base year emissions, EPA considers that to be a sufficient and reasonable demonstration that the area will maintain the NAAQS where the base year emissions are at a level sufficient to achieve the NAAQS. EPA is concluding that these analyses, as described greater in EPA's April 2021 SNPRM, provide adequate support for the conclusion that the removal of the I/M program from Hamilton County and the Middle Tennessee Area is consistent with CAA section 110(l). CAA section 110(l) demonstrations are case-specific, and modeling is not required to

[5] Tenn. Code Ann. section 68–201–119(c) allows Tennessee counties to retain local I/M programs under certain conditions. As Tennessee is requesting removal of the I/M program from the SIP, EPA's analysis in this final rule assumes that no I/M program will be implemented in Hamilton County or the Middle Tennessee Area. However, this final action does not preclude local I/M programs from being retained at a local level outside of the SIP.

[6] The total suite of CAA criteria pollutants are ozone (through the precursors NO_X and VOCs), CO, PM (and its precursors—NO_X, VOCs, ammonia, and SO_2), lead, SO_2, and NO_2.

[7] The term ''NO_X limited'' means that changes in anthropogenic VOC emissions have little effect on ozone formation. Control of NO_X and VOC are generally considered the most important components of an ozone control strategy, and NO_X and VOC make up the largest controllable contribution to ambient ozone formation. However, Tennessee has shown a greater sensitivity of ground-level ozone to NO_X controls rather than VOC controls. This is due to high biogenic VOC emissions compared to anthropogenic VOC emissions in Tennessee. Therefore, implemented control measures have focused on the control of NO_X emissions.

[8] EPA notes that Tennessee did an analysis of emissions between 2022 and 2030 without I/M to determine the potential impact of mobile emissions. Tennessee's analysis shows that in the Middle Tennessee Area emissions decrease by 35 percent for NO_X, 24 percent for VOC, and 30 percent for CO; and that in Hamilton County emissions decrease by 45 percent for NO_X, 33 percent for VOC, and 40 percent for CO. This analysis is provided in the dockets for this final rulemaking as weight of evidence.

[9] Design values are how EPA measures compliance with the NAAQS.

demonstrate non-interference under these circumstances.

In the April 2021 SNPRM, EPA clarified that although Tennessee included photochemical modeling sensitivity analyses to provide additional weight of evidence in its February 26, 2020, SIP revisions, and EPA described those analyses in the June 2020 NPRMs, the photochemical modeling sensitivity analyses were not required and were not intended as the bases for EPA's proposed determinations that removal of the I/M program from Hamilton County and the Middle Tennessee Area would not interfere with attainment or maintenance of the NAAQS or any other applicable CAA requirements. EPA's conclusion that these removals satisfy CAA section 110(l) is based on the technical analyses summarized above and provided in greater detail in EPA's April 2021 SNPRM. *See* 86 FR 21248.

IV. Responses to Comments

EPA received numerous comments on the June 2020 NPRMs and the April 2021 SNPRM.[10] Two state representatives expressed objection to removal of the I/M program while several state representatives expressed strong support for removal of the I/M program and urged EPA to take quick action. For this response to comments, the comments have been grouped into the following categories: (1) Air quality improvements/impacts; (2) non-interference demonstration; and (3) comments outside the scope of this rulemaking. EPA's responses to comments are provided below.

A. Responses to Comments Related to Air Quality Improvements/Impacts

EPA received numerous comments related to air quality and the potential impact of removing the I/M program on human health and the environment. EPA's evaluation of these comments and responses is provided below.

Comment A1: Several commenters raise concerns regarding how the removal of the ''carbon emissions testing program'' will affect the health and wellbeing of the general population of Tennessee as well as vulnerable populations, elderly, and children. Many of these commenters are particularly concerned about those suffering from asthma or allergies. Some commenters state that vehicle emissions could cause shortness of breath, wheezing, coughing, pulmonary inflammation, and lung disease. Other commenters identify vulnerable populations, such as those with cardiovascular diseases, diabetes, or COVID–19, who could be particularly affected by vehicle emissions.

Response A1: Hamilton County and the Middle Tennessee Area are in compliance with all of EPA's NAAQS. EPA has established NAAQS for six of the most common air pollutants—CO, ozone, PM, NO_2, lead, and SO_2—known as ''criteria pollutants.'' Primary NAAQS are set to protect public health with an ''adequate margin of safety,'' including the health of at-risk groups;[11] and secondary NAAQS are set to protect the public welfare, which includes effects on trees, plants, crops, and ecosystems. *See* CAA sections 108 and 109. Thus, EPA evaluates air quality criteria and impacts to public health and welfare as part of the comprehensive standard setting process. EPA's final rule revising each of the NAAQS includes a thorough explanation of human exposure and health risk assessments conducted in support of the Agency's review of evidence of exposures on human health effects, as well as detailed rationales for EPA's decisions on the relevant standards. *See, e.g.,* 80 FR 65291 (October 26, 2015) (containing an analysis of the most recent ozone NAAQS).

As discussed in the April 2021 SNPRM, EPA conducted a technical analysis to comply with CAA section 110(l), which determined the impacts of removal of the I/M program in Hamilton County and the Middle Tennessee Area. EPA's technical analysis concludes that after removal of the I/M program, Hamilton County and the Middle Tennessee Area will continue to comply with all NAAQS, including the most stringent NAAQS. As discussed above, since the NAAQS are set to protect the public health and welfare and EPA's technical analysis shows that the areas will continue to comply with all of the NAAQS, public health and welfare will continue to be protected once the I/M program is removed from the Tennessee SIP.

Comment A2: Several commenters express concern that removing the I/M program would harm the natural ecology and wildlife of Tennessee. Another commenter wrote that removing the I/M program could negatively affect food production. Both types of comments imply that removing the I/M program would worsen air quality, resulting in problems for the surrounding natural environment.

Response A2: As mentioned in Response A1, EPA has established primary and secondary NAAQS to protect human health and the environment. Each NAAQS, with the exception of CO, has both a primary and secondary NAAQS.[12] In some cases, the primary and secondary NAAQS are set at the same level. Secondary NAAQS provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

Hamilton County and the Middle Tennessee Area are in compliance with all secondary NAAQS. For reasons explained in EPA's June 2020 NPRMs and April 2021 SNPRM, EPA disagrees that removing the I/M program from the Tennessee SIP will cause Hamilton County or the Middle Tennessee Area to violate any NAAQS. Tennessee's technical demonstrations support EPA's conclusion that the removal of the I/M program for both Hamilton County and the Middle Tennessee Area will not interfere with attainment or maintenance of the NAAQS or any other applicable requirements of the CAA. Further information concerning EPA's evaluation of Tennessee's technical demonstrations can be found in Response B1. The commenters do not provide any technical information to support their position or indicate that interference with maintenance of the secondary NAAQS would result upon removal of the I/M program in the Middle Tennessee Area or Hamilton County. EPA has determined that upon removal of the I/M program, Hamilton County and the Middle Tennessee Area will continue to be in compliance with all secondary NAAQS, which are set to address the types of welfare concerns raised by the commenters.

Comment A3: A commenter asserts that air quality is getting worse in the Middle Tennessee Area and showing a flat trend in ozone design values in the Hamilton County region. With respect to the Middle Tennessee Area, a commenter claims that while current ozone NAAQS-related design values are below the standard, recent observations in air quality in the Area have shown an upward trend in highest ozone concentrations, indicating the reversal

[10] Comments are available on *regulations.gov* in dockets for EPA–R04–OAR–2019–0619 (Hamilton County) and EPA–R04–OAR–2019–0618 (Middle Tennessee Area). A majority of the comments were received on the June 2020 NPRMs.

[11] For example, the rulemaking associated with the establishment of the 2015 8-hour ozone NAAQS states that the action provides increased protection for children, older adults, and people with asthma or other lung diseases, and other at-risk populations against an array of adverse health effects that include reduced lung function, increased respiratory symptoms and pulmonary inflammation; effects that contribute to emergency department visits or hospital admissions; and mortality. *See, e.g.,* 80 FR 65292 (October 26, 2015).

[12] *See https://www.epa.gov/criteria-air-pollutants/naaqs-table.*

of improvements resulting from ''existing control programs'' such as Tennessee's I/M program. The commenter goes on to explain that ''[a]dditionally, when comparing monitor-level 4th high ozone [maximum daily average (''MDA8'')][13] concentrations for receptors in the Middle Tennessee region, values that are used by EPA in determining ozone attainment and designations, not a single monitor has shown a decrease between 2014 and 2018. In fact, of the five monitors in the domain, . . . three show no change in 4th high MDA8 concentrations between the two years while the other two monitors show an increase of up to 3 parts per billion (ppb) in the MDA8 concentration observed.'' The commenter also points to an ''upward trend in highest concentrations across all monitors, in particular the maximum concentration exceeded 0.085 in 2018.'' The commenter also asserts that ozone is increasing in the Middle Tennessee Area based on EPA's Air Quality Index (AQI) and points to increases in the number of unhealthy days for sensitive groups and the maximum AQI value per year.

With respect to Hamilton County, the commenter claims that while current ozone NAAQS-related design values are below the standard in Hamilton County, recent observations in air quality in the ''region'' have shown a flat trend in air quality. The commenter goes on to explain that, ''[w]hen comparing monitor-level ozone MDA8 [14] concentrations for receptors Hamilton County, Tennessee, values that are used by EPA in determining ozone attainment and designations, neither monitor has shown air quality improvement between 2015 and 2018. In fact, . . . both monitors in the domain . . . show no change in MDA8 concentrations between the two years with increases in value (poorer air quality) in the intermediate years.''

Response A3: As discussed above in Response A1, EPA sets the NAAQS at levels protective of public health and welfare. With respect to ozone, the most recent 2015 8-hour ozone NAAQS is met if the annual 4th highest daily maximum 8-hour ozone concentration, averaged over three years, is equal to or less than 70 ppb. *See, e.g.,* 80 FR 65292 (October 26, 2015) (containing an analysis of the most recent ozone NAAQS). In setting this standard, EPA considered all of the components of the NAAQS (indicator, averaging time, level, and form) collectively, and determined that the standard provided the requisite protection of public health and welfare. *See id.*

EPA agrees with the commenter that the Middle Tennessee Area and Hamilton County are currently attaining all of the ozone NAAQS, including the current 2015 8-hour ozone standard. EPA must evaluate these SIP revisions for consistency with CAA section 110(l), which prohibits the Agency from approving revisions that would interfere with any applicable requirement regarding attainment or any other CAA requirement. EPA reviews SIP revisions, like removal of the I/M program from Tennessee's SIP, to determine whether they meet the applicable requirements of the CAA, including section 110(a)(1), which requires SIPs to provide for implementation, maintenance, and enforcement of the NAAQS. *See* CAA section 110(k)(2), (3). EPA considers the status of an area attaining the NAAQS when EPA evaluates whether a SIP revision will interfere with attainment or maintenance of the NAAQS.[15]

In response to concerns about increasing ozone concentrations raised by the commenter, EPA evaluated the air quality trends in both Hamilton County and the Middle Tennessee Area. The results of this analysis, discussed in detail in the April 2021 SNPRM, show that while both areas have observed yearly variability in measured ozone concentrations, there is not a strong increasing or decreasing trend in the ozone concentrations in either area since 2013. Both areas, along with several other areas in the southeastern United States, measured significantly higher ozone concentrations in 2012. These high concentrations were primarily the result of meteorological conditions that were very conducive to ozone formation (high temperature, low wind speed, and moderate relative humidity). Both areas have continued to attain the 2008 8-hour ozone NAAQS and the 2015 8-hour ozone NAAQS after each standard became effective.[16] EPA uses a three-year design value to determine NAAQS compliance in order to account for the inherent yearly variability in ozone concentrations due to variations in meteorology, which can impact ozone levels during periods with similar emissions levels.

As shown in Table 1 below, the highest design value for the five ozone monitors in the Middle Tennessee Area is 72 ppb in 2014 (using 2012–2014 data), 67 ppb in 2015 (using 2013–2015 data), 67 ppb in 2016 (using 2014–2016 data), 66 ppb in 2017 (using 2015–2017 data), 67 ppb in 2018 (using 2016–2018 data), 66 ppb in 2019 (using 2017–2019 data), and 65 ppb in 2020 (using 2018–2020 data). Starting with the 2013–2015 design values, the Area's design values do not indicate a strong increasing or decreasing trend and have remained below the 2015 8-hour ozone NAAQS.

TABLE 1—MIDDLE TENNESSEE OZONE MONITOR DESIGN VALUES,*** ppb

Monitor name	County	Design value 2012–2014	Design value 2013–2015	Design value 2014–2016	Design value 2015–2017	Design value 2016–2018	Design value 2017–2019	Design value 2018–2020
East Health/Trinity Lane	Davidson	*	*	66	** 65	66	65	64
Percy Priest Dam	Davidson	70	65	67	64	67	65	65
Hendersonville	Sumner	72	67	67	66	66	66	65
Fairview Middle School	Williamson	66	62	61	60	60	60	60
Cedars of Lebanon	Wilson	67	62	64	63	*	*	60

* No valid design value due to incomplete data. The Cedars of Lebanon site had incomplete data in 2018 because there was an issue following the installation of a new monitoring shelter, and TDEC invalidated data collected before the issue was corrected. The East Health/Trinity Lane site had incomplete data in 2013.

** In the June 11, 2020, NPRM (85 FR 35607), EPA inadvertently stated that the 2015–2017 Design Value was 66 ppb. The correct value is 65 ppb.

[13] In its comments regarding the Middle Tennessee Area, the commenter appears to use the term ''MDA8'' to refer to the maximum 8-hour daily average ozone concentration in a given year at a monitor.

[14] In its comments regarding Hamilton County, the commenter appears to use the term ''MDA8'' to refer to the ozone design value at a monitor. The design value at a monitor for the 8-hour ozone NAAQS is the annual 4th highest daily maximum 8-hour ozone concentration averaged over three years.

[15] Year to year changes in ozone levels result both from changes in precursor pollutant emissions and from fluctuations in meteorological conditions. This was taken into consideration in the development of the NAAQS and resulted in a protective standard that is based on a 3-year average of 4th maximums at an individual monitor.

[16] As shown in Table 1, 2014 is one of the years associated with attaining design values for the 2008 8-hour ozone NAAQS of 0.075 parts per million (ppm). The 2008 8-hour ozone NAAQS was the applicable NAAQS for the 2015 ozone season. EPA notes that the 2015 8-hour ozone NAAQS of 0.070 ppm was not in effect until October 1, 2015, and all design values, beginning with the 2014–2016 design value, attained the 2015 8-hour ozone NAAQS.

*** The Middle Tennessee Area was in attainment with the most recent effective ozone NAAQS for the entire period. The 2012–2014 and 2013–2015 design values were attaining the 2008 8-hour ozone NAAQS of 75 ppb. EPA notes that the 2015 8-hour ozone NAAQS of 70 ppb was not in effect until October 1, 2015, and all design values after this date attained the 2015 standard.

As shown in Table 2, the highest design value for the two ozone monitors in Hamilton County is 69 ppb in 2014 (using 2012–2014 data), 66 ppb in 2015 (using 2013–2015 data), 68 ppb in 2016 (using 2014–2016 data), 67 ppb in 2017 (using 2015–2017 data), 66 ppb in 2018 (using 2016–2018 data), 64 ppb in 2019 (using 2017–2019 data), and 62 ppb in 2020 (using 2018–2020 data). Since the 2013–2015 design values, the Area's design values do not indicate a strong increasing or decreasing trend and have remained below the 2015 8-hour ozone NAAQS.

TABLE 2—HAMILTON COUNTY OZONE MONITOR DESIGN VALUES, ppb

Monitor Site Name	Design value 2012–2014	Design value 2013–2015	Design value 2014–2016	Design value 2015–2017	Design value 2016–2018	Design value 2017–2019	Design value 2018–2020
Eastside Utility	69	66	68	67	66	64	62
Soddy Daisy High School	67	64	65	65	64	64	61

EPA also evaluated the annual 4th maximum daily maximum 8-hour ozone concentrations for each site in both areas (shown in Table 3). As discussed above, it is common for monitors to measure annual variability in ozone concentrations due to several factors. These annual values do not generally indicate a strong increasing or decreasing trend at any of the monitors in the Middle Tennessee Area or Hamilton County.

TABLE 3—MIDDLE TENNESSEE AREA AND HAMILTON COUNTY: ANNUAL 4TH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS, 2012–2020

Monitor Site name	County	AQS ID	2012	2013	2014	2015	2016	2017	2018	2019	2020
East Health	Davidson (Middle Tennessee Area).	47–037–0011	76	(*)	65	67	66	64	68	65	60
Percy Priest Dam	Davidson (Middle Tennessee Area).	47–037–0026	(*)	60	71	64	68	62	71	63	61
Soddy-Daisy High School	Hamilton	47–065–1011	77	61	64	68	65	64	64	64	57
Eastside Utility	Hamilton	47–065–4003	77	64	67	68	69	65	64	65	58
Hendersonville	Sumner (Middle Tennessee Area).	47–165–0007	83	68	66	67	68	64	68	66	63
Fairview Middle School	Williamson (Middle Tennessee Area).	47–187–0106	74	62	63	61	61	58	63	60	57
Cedars of Lebanon	Wilson (Middle Tennessee Area).	47–189–0103	77	62	64	61	67	61	64	60	58

* Indicates that a monitor did not meet annual data completeness criteria for a given year

Finally, for both areas, EPA evaluated the annual number of days with monitored exceedances of the 2015 8-hour ozone NAAQS, where the daily maximum 8-hour ozone concentration at any monitor in the area exceeded 70 ppb. This is equivalent to the number of days with an ozone AQI above 100 and the number of days with an AQI category of ''unhealthy for sensitive groups'' or worse. The results of this analysis are shown in Table 4. Similar to the data presented above, these values show year to year variability in the ozone concentrations in both areas, but neither area shows a strong increasing nor decreasing trend in the frequency of days above the 2015 8-hour ozone NAAQS.

TABLE 4—MIDDLE TENNESSEE AREA AND HAMILTON COUNTY: ANNUAL COUNT OF DAYS WITH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS ABOVE 70 ppb, 2012–2020

Area	2012	2013	2014	2015	2016	2017	2018	2019	2020
Middle Tennessee	31	0	6	1	4	1	6	1	0
Hamilton County	8	1	1	3	2	2	1	0	0

* For consistency, EPA evaluated the number of days above 70 ppb (the level of the 2015 8-hour ozone NAAQS) for all years. Note that this standard was not effective until October 1, 2015. Some of the days counted in 2012–2015 were not exceedances of the 2008 ozone NAAQS of 75 ppb, which was effective at the time this data was collected.

Comment A4: Several commenters assert that air quality will worsen by no longer requiring the monitoring of emissions, and therefore the I/M program should not be removed. One commenter in reference to the Middle Tennessee Area stated that ''[d]ropping the I/M program will increase NO_X by 478 tons per year and VOC by 593 tons per year,'' and asserts that the analysis ''likely underestimates the deterioration of air quality that will occur,'' concluding that the emissions increases put ''Tennessee at risk of violating the standard in the future.'' At least one commenter also implied that removal of the I/M program would remove the ambient air monitoring requirements for the areas.

Response A4: There is no evidence that air quality will worsen to the point of violating the NAAQS by no longer requiring periodic testing of emissions from individual vehicles in Tennessee. It is important to note that I/M programs require scheduled testing of a vehicle's tailpipe and evaporative emissions to determine the effectiveness of existing emission controls on that individual vehicle. Emissions controls are not specifically required by I/M programs but rather are required for all light-duty vehicles pursuant to EPA's vehicle

emission standards, as discussed further below in this response. I/M programs reduce the emissions of certain pollutants (primarily NO_X, VOC, and CO) by identifying individual vehicles with malfunctioning or deteriorated emission control systems and requiring the repair of these vehicles to bring them closer to their original certification levels. As discussed in the April 2021 SNPRM, the projected combined (point, non-point, on-road and non-road) NO_X, VOC, and CO emissions increases for the 2022 scenarios with and without the I/M program will not impact the Areas' attainment of the ozone NAAQS given that total emissions of these pollutants in 2022 without the I/M program will be well under the total emissions in 2014 and given the current design values for Hamilton County and the Middle Tennessee area.

Further, EPA has promulgated multiple Federal requirements for engine and fuel standards to ensure that passenger vehicles are cleaner since the 2000s. On February 10, 2000, EPA issued the Tier 2 passenger (light duty) vehicle standards. *See* 65 FR 6698. The standards set stringent emissions standards for passenger vehicles, as well as limits on the amount of sulfur, a naturally occurring contaminant, in gasoline. Limiting sulfur in gasoline allows emissions reduction technologies like catalysts to be significantly more effective in reducing NO_X and other pollutants. Vehicles and their fuels continue to be an important contributor to air pollution. EPA in 2014 issued standards commonly known as Tier 3, 79 FR 23414 (April 28, 2014), which considered the vehicle and its fuel as an integrated system, setting new vehicle emissions standards and a new gasoline sulfur standard beginning in 2017. The vehicle emissions standards reduce both tailpipe and evaporative emissions from passenger cars, light-duty trucks, medium-duty passenger vehicles, and some heavy-duty vehicles. The gasoline sulfur standard enables more stringent vehicle emissions standards and makes emissions control systems more effective. These rules further cut the sulfur content of gasoline. Cleaner fuel makes possible the use of new vehicle emission control technologies and cuts harmful emissions in existing vehicles. These standards will continue to reduce atmospheric levels of ozone (of which NO_X and VOC are the primary precursors), PM, NO_2, and toxic pollution. Also, cessation of the I/M program will not yield an immediate change in vehicle emissions. The I/M program's benefits will continue for a period of time after its cessation, as vehicles inspected and/or repaired up until that time would continue to operate in a manner that meets the emissions specification of the program.

EPA also notes that the removal of the I/M program from Tennessee's SIP does not remove the ambient air quality monitoring requirements that the State must comply with pursuant to 40 CFR part 58. Ambient air quality monitoring will continue in these areas without the I/M program in Hamilton County and the Middle Tennessee Area.

Comment A5: Some commenters mention that air quality is poor in Hamilton County and the Middle Tennessee Area. Commenters refer to 2018 and 2019 reports from the American Lung Association (ALA).[17] One commenter states that in the 2019 ALA report, ''Hamilton County received a 'D' rating, ranking it among the worst counties in Tennessee for air quality.'' Other commenters express concern with breathing unhealthy air in Nashville, with one commenter stating that in 2019, ''Nashville plummeted to the bottom of the American Lung Association's [ALA's] State of Air report with unhealthy levels of ozone that put 'citizens at risk for premature death and other health effects. . . .' '' Commenters state that ''Tennessee achieved attainment status in 2017'' but also note that the ALA's ''annual State of Air Report indicates air quality across the country is beginning to decline,'' and that 4 in 10 Americans are living with unhealthy air. A commenter further states that ''Emissions testing is important to ensure Tennessee stays in attainment and continues to improve its air quality.'' Additionally, a commenter cites to the ALA report to assert that—while ozone levels are improving—$PM_{2.5}$ levels are becoming worse, in part due to climate change-driven wildfires. The commenters also request that EPA ''allow local governments the ability to opt-in to testing and use this tool to protect air quality.''

Response A5: First, EPA notes that Tennessee is meeting all of the NAAQS for all areas in the State with one exception, discussed below. As further detailed in EPA's June 2020 NPRMs and EPA's April 2021 SNPRM, air monitoring data for EPA's most recent and stringent health-based NAAQS demonstrate compliance with these NAAQS in most areas of Tennessee, including Hamilton County and the Middle Tennessee Area. State and local agencies submit air monitoring data annually, and EPA evaluates this data for compliance with the NAAQS.[18] *See* 40 CFR part 58. Tennessee's 2020 data for compliance with the NAAQS was certified in April 2021. EPA has a robust process to establish the NAAQS and sets the NAAQS at a level requisite to protect human health and the environment. Tennessee's compliance with the NAAQS inherently means that citizens in such areas are breathing air that is protective of human health. Second, EPA notes that ALA uses a different methodology in ''grading'' areas than EPA uses in evaluating areas for compliance with the NAAQS. *See* 2019 ALA report pages 51–54 (discussing the methodology used by ALA in grading areas). As discussed in Response A3, EPA evaluates SIP revisions for compliance with the NAAQS. EPA notes that the statement in the ALA report that 4 in 10 Americans are living with unhealthy air is not a direct reference to areas in Tennessee. With respect to the assertions regarding $PM_{2.5}$, please see response A6, below.

With respect to commenters' assertions that the I/M program should be maintained to ensure continued compliance with the NAAQS and requests that local areas be allowed to opt-in to I/M programs, EPA disagrees in part. EPA notes that Tennessee currently implements the I/M program as part of the State's discretionary measures to attain and maintain the NAAQS. CAA section 110(l) provides that the Administrator cannot approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment, or any other applicable requirement of the CAA. In addition, section 110(k) of the CAA requires EPA to approve SIP revisions that meet all applicable CAA requirements. As further discussed in the April 2021 SNPRM, EPA has determined that section 110(l) requirements have been met because removal of the I/M program will not interfere with attainment or maintenance of any NAAQS or any other requirement of the CAA. Therefore, because EPA has determined that the SIP revisions meet all applicable requirements, EPA is approving Tennessee's request to remove the I/M program from the SIP. EPA's action to remove the I/M program does not preclude the state or local

[17] Commenters did not provide either ALA report with their comments. EPA has retrieved these reports and is providing them in the dockets for this final rulemaking.

[18] The State of Tennessee submitted its 2020 data on April 7, 2021; EPA concurrence was sent on April 9, 2021. Nashville submitted its 2020 data on April 19, 2021; EPA concurrence was sent on April 20, 2021. Chattanooga submitted its 2020 data on April 30, 2021; EPA concurrence was sent on April 30, 2021.

government from maintaining an I/M program at the state or local level.

The one exception where Tennessee's air quality does not meet the NAAQS is a portion of Sullivan County, Tennessee, that encompasses the Eastman Chemical Plant. In 2013, EPA designated a portion of Sullivan County nonattainment for the 2010 1-hour SO_2 NAAQS. CAA section 191 requires Tennessee to develop a plan to bring the area back in attainment with the SO_2 NAAQS as expeditiously as possible. As noted in the June 2020 NPRMs (85 FR 35037 and 85 FR 35607) and the April SNPRM (86 FR 21248), the pollution control systems for light-duty gasoline vehicles subject to the I/M program are not designed to reduce emissions for SO_2; therefore, removing the I/M program requirements will not have any impact on ambient concentrations of SO_2.

Comment A6: Some commenters assert that removal of Tennessee's I/M program would cause greater increases or would exacerbate issues with pollutants uninvolved in ozone formation (*i.e.,* pollutants other than NO_X or VOC). Others worry that removing the I/M program as Tennessee grows warmer would result in increased ozone formation. The commenters also mention concerns about greater emissions in PM pollution, CO, and greenhouse gases (GHGs) (*i.e.,* methane and carbon dioxide (CO_2)). Some of the commenters that are worried about an increase in GHGs have concerns stemming from a general worry about climate change. Another commenter expresses concerns about increases in emissions in general, but also acknowledges that ozone formation in Tennessee appears to be limited by NO_X.

Response A6: With regard to PM emissions, EPA noted in the June 2020 NPRMs and the April 2021 SNPRM that I/M programs are not designed to reduce direct PM emissions. In fact, EPA's state-of-the-science Motor Vehicle Emission Simulator modeling system, MOVES, calculates no benefit for direct PM emission reductions from an I/M program. In addition, EPA notes that, separate and apart from I/M, there may be PM emission benefits in future years due to expected fleet turnover and continued implementation of EPA's engine and fuel standards. Furthermore, PM formation in Tennessee is dominated by sulfates. As noted in the June 2020 NPRMs and the April 2021 SNPRM, Hamilton County and the Middle Tennessee Area are well in compliance with the PM standards.

As noted in the June 2020 NPRMs and the April 2021 SNPRM, Hamilton County and the Middle Tennessee Area are well in compliance with the CO standards. In support of its non-interference demonstration and as discussed in EPA's June 2020 NPRMs and April SNPRM, Tennessee used the MOVES2014b mobile emissions modeling to determine the change in emissions for CO resulting from the removal the I/M program in Hamilton County and the Middle Tennessee Area. The results show an increase in CO emissions of 6.9 percent for Hamilton County, and of 6.1 percent for the Middle Tennessee Area for scenarios in 2022 with and without the I/M program. However, there is a decrease in total CO emissions from all source categories from 2014 to 2022. For reasons described in the April 2021 SNPRM, EPA has concluded the removal of the I/M program from Hamilton County and the Middle Tennessee Area is consistent with the CAA.

In terms of ozone, EPA agrees with the commenter that Tennessee is NO_X limited, making it the precursor of most consideration related to potential impacts. As discussed in the April 2021 SNPRM, there is a decrease in total NO_X emissions from all source categories from 2014 to 2022. EPA also notes that the I/M program does not have a direct impact on GHGs and is not designed to reduce emissions associated with climate change, such as GHGs.

Comment A7: Some commenters assert that rural and urban areas face different issues when it comes to pollution and air quality. In particular, commenters are concerned that dropping the I/M program in urban areas, which they claimed tend to have significantly more emissions, would increase emissions not only for those areas, but also for surrounding rural areas, and potentially cause future violations of the standard.

Response A7: EPA agrees that air quality is important. As discussed in EPA's June 2020 NPRMs and April 2021 SNPRM, Hamilton County and the Middle Tennessee Area are in attainment or maintenance for all criteria pollutants. The Agency has provided detailed information showing that the monitors in Hamilton County and the Middle Tennessee Area that collect complete, quality assured and certified data for recent years have design values that are less than the ozone, PM, and CO standards. The design values and recently certified data, in combination with the emissions inventory analysis, demonstrate that the areas will continue to meet the NAAQS, even as population and vehicles increase not only in Hamilton County and the Middle Tennessee Area, but statewide. While commenters seem to make a distinction between emissions from urban areas versus rural areas, the commenters do not provide information to indicate that removal of the I/M program in Hamilton County and the Middle Tennessee Area will cause a violation of the NAAQS in those areas or any surrounding rural areas. As mentioned in Response A4, EPA also notes that removal of the I/M program from the Tennessee SIP does not impact Federal vehicle and fuel standards that EPA has promulgated in separate rulemakings, and such standards will continue to result in significant emission reductions from the operation of vehicles, whether in rural or urban areas.

Comment A8: A commenter implies that removal of the I/M program will interfere with future visibility at the Great Smoky Mountains National Park.

Response A8: EPA disagrees with the commenter's assertion that removal of the I/M program will interfere with visibility at the Great Smoky Mountains National Park. Visibility impairment in the Southeast is primarily dominated by sulfates. Sulfate particles form in the air from SO_2 gas. Most of this gas is released from coal-burning power plants and other industrial sources, such as smelters, industrial boilers, and oil refineries. As discussed in the June 2020 NPRMs and the April 2021 SNPRM, the pollution control systems for light-duty gasoline vehicles subject to the I/M program are not designed to reduce emissions of SO_2 or the broader group of sulfates. In addition, as discussed in the April 2021 SNPRM, total NO_X emissions in 2022 without the I/M program are significantly less than total NO_X emissions in 2014 for the Middle Tennessee Area and Hamilton County.[19] EPA also notes that there are separate CAA requirements related to visibility impairment, known as regional haze, that all states must comply with. Removal of the I/M program will not remove these requirements which are separate and apart from the I/M requirements that individual areas may have.

Comment A9: Several commenters express concerns about population and vehicle growth and the possible impacts on air quality.

Response A9: As mentioned in more detail in this final rulemaking, vehicles are, and continue to become, cleaner because of EPA's engine and fuel standards. Although the population may grow and lead to more vehicles, new vehicles will be covered by the most

[19] NO_X emissions can convert to visibility impairing nitrates in the atmosphere.

recent vehicle emissions standards and be operated with gasoline that complies with the most recent Federal requirements.

Comment A10: A commenter states that ''In east Tennessee there is no air emissions testing and the air quality is very poor. The transportation sector is a major contributor of poor air quality, therefore all vehicles must meet the original manufacturers specification's and all aftermarket modifications to vehicle exhaust and emissions equipment must be made illegal.''

Response A10: EPA does not agree with the commenter that air quality is very poor in east Tennessee. As mentioned in Response A1, all areas in Tennessee are in compliance with the NAAQS with the exception of a small portion of Sullivan County in the eastern part of the State that is designated as nonattainment for the SO_2 NAAQS. Also, EPA does not understand what the commenter means by ''. . . no air emissions testing.'' As noted in Response A4, this action does not remove the ambient air quality requirements that Tennessee is subject to statewide. To the extent that the commenter is referring to vehicle emissions testing, EPA notes that, with respect to SIPs, ''each State is given wide discretion in formulating its plan,'' so long as the revision is consistent with the CAA, including section 110(l). *See Union Elec. Co.* v. *EPA,* 427 U.S. 246, 250 (1976); *see also Alabama Envtl. Council* v. *EPA,* 711 F.3d 1277, 1280 (11th Cir. 2013), *Sierra Club* v. *EPA,* 939 F.3d 649, 673 (5th Cir. 2019), and *Alaska Dep't of Envtl. Conservation* v. *EPA,* 540 U.S. 461, 470 (2004).

EPA agrees with the commenter that the transportation sector is an important sector for maintaining air quality and, as discussed in Response A4, EPA has taken steps to control emissions from the transportation sector, such as the Federal vehicle and fuel standards that will continue to provide benefits without the implementation of the I/M program in Tennessee. EPA also notes that the commenter's statements related to vehicle exhaust and emissions equipment are not impacted by or within the scope of this rulemaking.

Comment A11: One commenter suggests that the topography of Chattanooga would exacerbate poor air quality if EPA removed the local I/M program. Specifically, the Commenter explains that since Chattanooga is surrounded by mountains, the city suffers from a ''well-known inversion effect'' that traps pollutants in it during certain times of the year. Another commenter explains that Nashville sits in a depression called the ''Nashville or Central Basin,'' which tends to cause air to stagnate over the entire area. Both commenters argue that these unique geographical features would exacerbate poor air quality if EPA removed the I/M program.

Response A11: EPA disagrees that Hamilton County and the Middle Tennessee Area have ''poor air quality,'' as both areas currently meet all of the NAAQS, which is explained in more detail in Response A1. EPA does not have evidence to indicate that the removal of the I/M program from either Hamilton County or the Middle Tennessee Area will exacerbate poor air quality because of the unique geographical features in each area. While it is important to identify and mitigate vehicles that are not properly functioning and as a result may increase emissions, most vehicles are not producing increased emissions. Since the 2000s, with EPA's promulgation of Federal requirements for engine and fuel standards, passenger vehicles are cleaner. *See* Response A4 for more information on the engine and fuel standards.

Comment A12: A commenter asserts that COVID–19 pandemic has had an anomalous impact on air quality improvements in 2020, and indicates that removal of the Tennessee I/M program should not be considered until after newer trends in air quality are available. The commenter cites to three documents to assert that ''lockdown events have reduced the population-weighted concentration of nitrogen dioxide (NO_2) and particulate matter levels by about 60% and 31% across multiple countries, with mixed effects on ozone.''

Response A12: EPA disagrees with the commenter's implication that newer trends in air quality would be necessary to make the determination on whether removal of the I/M program would interfere with attainment or maintenance of the NAAQS in any area as a result of removal of the program from the Tennessee SIP. As detailed in EPA's April 2021 SNPRM and briefly described in Section III of this final rule, EPA used an emissions inventory comparison approach in which total emissions in 2014 were compared to total projected emissions in 2022. EPA's use of projected emissions in 2022 did not consider any potential reduction of emissions or improvements in air quality that might be sustained through changes in behavior that citizens in Hamilton County and the Middle Tennessee Area might have made as a result of the COVID–19 pandemic. Additionally, the commenter did not provide any information or analysis indicating that consideration of 2020 air quality improvements would impact the non-interference demonstration.

In EPA's April 2021 SNPRM, for the Middle Tennessee Area, EPA explained that the difference in NO_X emissions in 2022, with and without the I/M program, is 479 tons per year (tpy) for NO_X and 594 tpy for VOC. However, the total NO_X emissions in 2022 without the I/M program are 22,420 tpy less than the total NO_X emissions in 2014, and total VOC emissions in 2022 without the I/M program are 6,272 tpy less than the total VOC emissions in 2014. For CO, the difference in emissions in 2022, with and without the I/M program, is 10,368 tpy. However, the total CO emissions without the I/M program are 56,466 tpy less than the total CO emissions in 2014. Even without the I/M program in 2022, emissions of NO_X, VOC, and CO are projected to decrease by 47.1 percent, 15.1 percent, and 23.9 percent, respectively, from 2014 levels.

For Hamilton County, EPA explained in the April 20201 SNPRM that the difference in emissions in 2022, with and without the I/M program, is 100 tpy for NO_X and 146 tpy for VOC. However, the total NO_X emissions in 2022 without the I/M program are 3,505 tpy less than the total NO_X emissions in 2014, and the total VOC emissions in 2022 without the I/M program are 858 tpy less than the total VOC emissions in 2014. For CO, the difference in emissions in 2022 with and without the I/M program is 2,979 tpy. However, the total CO emissions without the I/M program are 10,061 tpy less than the total CO emissions in 2014. Even without the I/M program in 2022, emissions of NO_X, VOC, and CO are expected to decrease by 27.0 percent, 8.1 percent and 18.7 percent, respectively from 2014 levels.

In summary, because 2022 total emissions without the I/M program are projected to be less than the total 2014 emissions, EPA is concluding that removal of the I/M program in Hamilton County and the Middle Tennessee Area will not interfere with attainment or maintenance of the NAAQS, or any other applicable CAA requirements.[20] As mentioned above and in EPA's April 2021 SNPRM, while EPA considers NO_X, VOCs, ammonia, and SO_2 as precursors for PM, PM formation in Tennessee is dominated by emissions of SO_2, reacting in the atmosphere to form sulfates, and not by emissions of NO_X, VOCs, or ammonia. However, NO_X and VOC increases are considered through the analysis for ozone described in great

[20] Meteorology is not used directly for the emissions inventory approach that EPA used as the basis of its technical analysis.

detail in EPA's April 2021 SNPRM and summarized in this final rule. EPA also notes that in the April 2021 SNPRM, the Agency explains that with regard to the I/M program, NO_2 is captured generally through consideration of NO_X impacts.

B. Responses to Comments Related to the Non-Interference Demonstration

EPA received technical comments asserting that the non-interference demonstration is inadequate to approve the SIP revisions. EPA's evaluation of these comments and responses is provided below.

Comment B1: In response to EPA's June 2020 NPRMs, a commenter asserts that the non-interference demonstrations cannot be considered technically complete without air quality modeling to simulate the impact of removing the I/M program. The commenter recommends ''a full air quality simulation of the impact of removing the I/M program''—specifically suggesting the use of a transport grid model—to ensure that increases in air pollutant concentrations do not exceed NAAQS and health-based recommendations. The commenter also recommends that the ''air quality simulation'' utilize the ''most current modeling platform and associated emission projections,'' as well as meteorological and base year inventories that meet EPA guidance. The commenter cites EPA SIP modeling guidance in support of its recommendations. To further support its modeling recommendation, the commenter expresses concerns regarding the use of historical trends in air quality and emissions to evaluate impacts of I/M program removal due to annual variations in meteorology and actual emissions and the need for a solid conceptual model of how ozone or $PM_{2.5}$ is formed in the areas. Also, in response to EPA's April 2021 SNPRM, the commenter reasserts its position that the non-interference demonstration should be based on air quality modeling, asserting that a case-by-case determination by EPA that air quality modeling is warranted with respect to the removal of the I/M program; the commenter further provides a number of comments related to the ozone sensitivity analysis that Tennessee provided in its SIP revisions. The commenter does not provide substantive comments on EPA's technical non-interference demonstration as provided in the April 2021 SNPRM.

Response B1: EPA does not agree with the commenter that air quality modeling is required in order for EPA or the State to assess, pursuant to section 110(l) of the CAA, whether removal of the I/M program from Tennessee's SIP will interfere with attainment or maintenance of the NAAQS or any other requirement of the CAA. EPA acknowledges that air quality modeling is an option that could be used to evaluate the impact of removal of the I/M program. However, other technical analyses that do not involve modeling may also be used for section 110(l) demonstrations.

EPA refers the commenter to EPA's April 2021 SNPRM for more detail related to EPA's non-interference analysis. Also, as further explained in EPA's June 2020 NPRMs and April 2021 SNPRM, the pollution control systems for light-duty gasoline vehicles subject to the I/M program are not designed to reduce (and do not reduce) emissions for PM, lead, and SO_2 in Tennessee.

For CO and ozone, EPA reviewed Tennessee's MOVES2014b mobile modeling which estimated emissions in 2022 with and without the I/M program.[21] Tennessee developed an inventory based on the best available information to the State at the time of the submissions for both Hamilton County and the Middle Tennessee Area. EPA reviewed the inventory with and without the benefit of the I/M program for each area. As EPA noted in the June 2020 NPRMs and the April 2021 SNPRM, there was a slight increase in NO_X and VOC on-road emissions for each area for 2022 for the scenarios without the I/M program, as compared to the scenarios with the I/M program. For ozone, EPA agrees with a commenter's statement that ozone formation in Tennessee is NO_X-limited (*i.e.,* ozone concentrations are most effectively reduced by lowering NO_X emissions rather than VOC emissions).[22] Nonetheless, as discussed in the April 2021 SNPRM, EPA evaluated both the increases in on-road VOC and NO_X to determine whether the increase in total emissions in 2022 would interfere with attainment or maintenance of the ozone NAAQS in either area. EPA's analysis presented in the April 2021 SNPRM demonstrates that total emissions in these areas are projected to decrease significantly from the 2014 base year to the 2022 future year, even if the I/M program is discontinued. The small increase in on-road emissions resulting from removal of the I/M program in 2022 are overcome by the continued decrease in total emissions, despite increases in vehicle miles travelled, due to fleet turnover (*i.e.,* old vehicles being replaced with new vehicles that meet more stringent engine standards).

EPA disagrees with the commenter's concerns regarding the use of historical trends in air quality and emissions to evaluate impacts of I/M program removal due to annual variations in meteorology and actual emissions and the need for a solid conceptual model of how ozone or $PM_{2.5}$ is formed in the areas. EPA acknowledges the importance of understanding the factors affecting ozone and $PM_{2.5}$ formation in an area, and Response A6 provides information about factors affecting ozone and $PM_{2.5}$ in Tennessee. Concerns about annual variations in meteorology are addressed in Response A3. EPA believes that the large decreases in emissions of NO_X, VOC, and CO described in the April 2021 SNPRM overshadow the effects of annual variations in actual emissions.

Although Tennessee included photochemical modeling sensitivity analyses to provide additional weight of evidence in its submissions, as described by EPA above and in the April 2021 SNPRM, such analyses were not required and were not the basis for EPA's proposed determinations that removal of the I/M program from Hamilton County and the Middle Tennessee Area would not interfere with attainment or maintenance of the NAAQS or any other applicable CAA requirements. Specifically, in the April 2021 SNPRM, EPA clarified that it was not the Agency's intention to rely on Tennessee's ozone sensitivity analysis. Thus, any comments related to the sufficiency of that ozone sensitivity analysis are not relevant to the actions that EPA are finalizing in this document. EPA's conclusion that these removals satisfy CAA section 110(l) is based on the technical analysis presented in EPA's April 2021 SNPRM.

Comment B2: With respect to the commenter's concerns on the June 2020 NPRMs and the April 2021 SNPRM regarding the nonlinearity of ozone formation related to Tennessee's sensitivity analysis, the commenter

[21] Tennessee chose 2022 as the future year for the State's non-interference demonstrations because it is the year when the State anticipated that the Areas will cease implementation of the I/M program due to the CAA's SIP processing timeframe and the language of Tenn. Code Ann. section 68–201–119.

[22] As part of the Southeastern Modeling and Analysis Planning (SEMAP) project, Georgia Institute of Technology performed an analysis of the sensitivity of ozone concentrations in the Eastern U.S. to reductions in emissions of both NO_X and VOC and determined that the Southeast is NO_X limited. This analysis was based off the 2007 and 2018 SEMAP modeling which used the Community Multi-scale Air Quality model, version 5.01 with updates to the vertical mixing coefficients and land-water interface. May 1st through September 30th was modeled using a 12-km modeling grid that covered the Eastern U.S.

reviewed EPA modeling[23] and ''developed ozone source apportionment results and relationships between State-source category specific ozone source apportionment modeling and the seasonal NO_X emissions used to develop the ozone concentrations,'' which, the commenter states, ''provide indicators of relative contribution of source regions (states) and categories (*e.g.,* motor vehicle) NO_X and VOC emissions to downwind monitor ozone concentrations.'' The commenter asserts that this analysis indicated that ''emissions from motor vehicle sources contribute the greatest relative concentration from U.S. anthropogenic emissions to the monitors,'' in the areas and estimates that localized reductions (in the areas of analysis) would have a larger relative impact on ozone concentrations (as compared to statewide estimations). The commenter also developed regional ''impact factors,'' and asserts that the commenter found (using updated emissions, projections, and models) ''that the relative impact of NO_X emissions from mobile sources in Tennessee have factors significantly higher than most other regional-category combinations, leading us to conclude that motor vehicle and nonroad source emissions have the greatest impact on ozone concentrations'' in the Areas. The commenter did not provide the modeling files, just the summary of the results in the comments.

Response B2: As discussed in the April 2021 SNPRM, EPA's analysis relies on an emissions inventory comparison to determine whether Hamilton County and the Middle Tennessee Area would continue to attain the ozone and CO NAAQS after removal of the I/M program. EPA is not relying on an ozone sensitivity analysis to determine that removal of the I/M program would not interfere with attainment or maintenance of the NAAQS. Therefore, the alleged deficiencies related to nonlinearity of ozone formation from NO_X and VOC precursors in Tennessee's sensitivity analyses are irrelevant. As noted in other comment responses in this rule, the State has primacy over air quality planning and has the authority to determine which source categories to control to maintain the NAAQS. Under the CAA, the sole issue for EPA's consideration in this rulemaking is whether removing the I/M program from the SIP for these two areas would be consistent with CAA provisions, including whether discontinuation is expected to interfere with attainment and maintenance of air quality standards. As discussed further in the April 2021 SNPRM, EPA is approving removal of the I/M program from the SIP because removal is consistent with the requirements of the CAA, including noninterference with attainment and maintenance of the NAAQS.

Comment B3: In response to EPA's June 2020 NPRMs, a commenter asserts that Tennessee's MOVES modeling did not use appropriate assumptions, pointing to changes in Federal Corporate Average Fuel Economy (CAFE) standards, Reid Vapor Pressure (RVP) standards, and biofuel blending requirements that were not included in the model. The commenter asserts that EPA must either conduct the modeling itself using the appropriate inputs to confirm that there will be no interference with the NAAQS or disapprove the non-interference demonstration and require the State to do the correct modeling. Further, in response to EPA's April 2021 SNPRM, a commenter discusses EPA's recent release of MOVES3 and asserts that TDEC should consider the impact that the changes in this model have on the assumptions included in the removal of the I/M program in the State. The commenter further asserts that TDEC should consider this impact ''especially in light of EPA's findings that NO_X emissions estimates were higher in future years in urban areas using MOVES3 compared to MOVES2014b.''

Response B3: EPA disagrees with the commenter. EPA reviewed the MOVES2014b modeling that was submitted by Tennessee to support the non-interference demonstration and concluded that the State used appropriate assumptions for the model and performed the modeling in accordance with EPA's MOVES Technical Guidance.[24] Tennessee used the MOVES2014b model which was the latest version of the model available at the time that the State submitted its SIP revisions, and the State is not required to redo its analysis based on the release of an updated model after the State's submissions.[25]

Regarding the changes to the CAFE standards, the National Highway Traffic Safety Administration has finalized the revisions to the CAFE standards for light duty vehicles.[26] However, that final action does not have any impact on Tennessee's demonstration related to removal of the I/M program. The vehicles affected by the revised CAFE standards would still need to meet applicable criteria pollutant emissions standards (*e.g.,* the Tier 3 emissions standards; *see* 79 FR 23414).

Regarding RVP and biofuel blending requirements, EPA reviewed the selected fuel formulations (including those for biofuels) for the modeled mobile emissions and concurred that they accurately reflect the Areas' profiles. The fuel formulation encompasses all the properties for that particular fuel (*i.e.,* sulfur levels, benzene, and RVP).

While the commenter mentions that ''. . . NO_X emissions estimates were higher in future years in urban areas using MOVES3 compared to MOVES2014b[,]'' the commenter does not provide any information to indicate that NO_X emissions in either Hamilton County or the Middle Tennessee Area would be higher or would interfere with attainment or maintenance of any NAAQS. As detailed in EPA's April 2021 SNPRM and summarized above, NO_X emissions in Hamilton County and the Middle Tennessee Area are estimated to be 3,505 tpy and 22,420 tpy lower than 2014 emissions, respectively. EPA is concluding that it is reasonable to assume that a change to a more recent version of MOVES would not result in an increase in emissions over the significant decreases in emissions between 2014 and 2022.

[23] The commenter based their analysis on the Comprehensive Air quality Model with eXtensions/Ozone Source Apportionment Technology (CAM_X/OSAT) modeling platform that EPA prepared for the CSAPR Close-Out rule. *See* 83 FR 65878, 65887–88 (December 21, 2018).

[24] *See* EPA's July 2014 ''Policy Guidance on the Use of MOVES2014 for State Implementation Plan Development, Transportation Conformity, and Other Purposes'' (hereinafter MOVES 2014 Guidance). This document is available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100K4EB.pdf.*

[25] EPA released the latest mobile modeling platform, MOVES3, on November 16, 2020, approximately nine months after Tennessee submitted its SIP revisions, and EPA only recently announced MOVES as EPA's official model for future SIP development outside of California (January 7, 2021, 86 FR 1106). EPA's November 2020 Policy Guidance on the Use of MOVES3 for State Implementation Plan Development, Transportation Conformity, General Conformity, and Other Purposes (EPA–420–B–20–044) (hereinafter MOVES3 Policy Guidance) notes that ''[s]tates should use the latest version of MOVES that is available at the time that a SIP is developed.'' This document is available at *https://www.epa.gov/sites/production/files/2020-11/documents/420b20044_0.pdf.* Also, the Guidance states the following: ''All states other than California should use MOVES3 for SIPs that will be submitted in the future so that they are based on the most accurate estimates of emissions possible. However, state and local agencies that have already completed significant work on a SIP with MOVES2014 (*e.g.,* attainment modeling has already been completed with MOVES2014) may continue to rely on the earlier version of MOVES.''

[26] *See* ''The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks,'' 85 FR 24174 (April 30, 2020).

Comment B4: A commenter raises a number of concerns with regard to the sensitivity analysis that was provided as part of the State's non-interference demonstration. The commenter asserts that the wrong inventory was used, stating that Tennessee used the ''outdated and inappropriate 2014 National Emission Inventory (NEI) for base year and future year emission assumptions,'' which the commenter claims is contrary to EPA guidance. The commenter states that ''EPA and others have concluded that 2014 is not useful for ozone sensitivity simulations,'' specifically asserting that 2014 was not conducive to ozone formation and did not contain high ozone periods adequate for an assessment of the impact of control technologies and air quality response. The commenter asserts that newer modeling platforms have been released with vastly improved estimates (specifically citing to a 2016 NEI).[27] The commenter specifically points to differences in NO_X and VOC estimates in the later-released platforms, and provides a comparative analysis between the 2014 NEI and a 2016 NEI for Hamilton County and the Middle Tennessee Area. The commenter acknowledges that the 2014 NEI was the most current version at the time that Tennessee conducted its analysis. The commenter recommends the analysis be revised using the most current modeling platform and associated emission projections, and specifically references the 2016 NEI. The commenter also recommends modeling be conducted using a meteorological and associated base year inventory that meets the requirements of EPA guidance for the determination of impact of control strategies and air quality response.

The commenter also claims that old and inappropriate assumptions were used, expressing concerns that the ozone sensitivity study was based on the 2007 SEMAP data projected to 2018. The commenter asserts that the non-interference analysis misuses the SEMAP study and points toward language in the report stating that ''these factors should not be used for anything other than identical conditions to those in the SEMAP analysis.'' The commenter asserts that the demonstration assumes a similar response in 2022, and that there is no basis for this assumption. The commenter characterizes the information from the SEMAP report as ''brute force factors'' that are not applicable because the factors are not tailored to the I/M removals in Hamilton County and the Middle Tennessee Area. The commenter points to differences between SEMAP projections and actual emissions as reported in the 2016 NEI, expressing concern about the ratios of NO_X and VOC used in the non-interference demonstration. The commenter further asserts that the SEMAP data underestimates the ''contribution of vehicles to the inventory'' as compared to the 2016 NEI. The commenter also asserts that recent modeling indicates that on-road emission increases—and specifically Tennessee's motor vehicle source category—have a greater impact on regional air quality than what the demonstration calculates (in part, due to the assumption that each ton of a precursor has an equal impact on ozone formation). The commenter concludes that the sensitivity factors used in the demonstration are ''not directly applicable to today's ozone conditions and likely not representative of the air quality change due to the removal of the I/M programs.'' The commenter further states that Tennessee's ''recognition that its use of the scaling analysis would yield erroneous results should be adequate enough for the agency to reconsider using its analysis as a weight-of evidence approach to removal of the I/M program.'' If the analysis does not use air quality simulation, the commenter recommends an "'impact factor'-like application to determine the impact of the removal of the I/M program, [with] county and motor vehicle specific factors.''

Response B4: As discussed above and in EPA's April 2021 SNPRM, EPA is not relying on Tennessee's sensitivity analysis in its determination that removal of the I/M program will not interfere with any applicable requirement under the CAA. To the extent the commenter is asserting that the emissions comparison analysis should be conducted with more recent data, such as later versions of the NEI, EPA disagrees with the commenter. The 2014 NEI was the latest available emissions data and served as the baseline data for both Middle Tennessee Area and the Chattanooga Area. In addition, the 2014 NEI matches the base year used, which was the 2014 attainment year. While subsequent emissions data are available since EPA received these SIP submissions, both areas continue to attain the NAAQS. The 2014 NEI was developed consistent with EPA guidance and sufficiently serves as the basis for this demonstration. EPA's conclusion that removal satisfies CAA section 110(l) is based on the technical analysis as described in detail in the April 2021 SNPRM and summarized above.

Comment B5: A commenter discusses and compares a Georgia analysis to relax RVP requirements with the analysis to support removal of the Tennessee I/M program. The commenter points to two aspects of the Georgia analysis that differ from the Tennessee analysis: The substitution of quantifiable, permanent, surplus, enforceable, and contemporaneous measures to achieve equivalent emissions reductions to offset potential emissions increases; and a demonstration that emissions are well below (and will not exceed) motor vehicle emissions budgets (MVEBs). The commenter asserts that Tennessee's analysis to remove the I/M program does not include offsets nor does the analysis calculate and provide additional support of meeting current and future year MVEBs. The commenter further asserts that the MVEBs for Hamilton County were never calculated, and that concern was expressed about the Middle Tennessee Area meeting ''the old MVEBs'' at the Nashville Area Interagency Consultation Group meetings. The commenter concludes that the request to remove the I/M program does not have a supporting analysis comparable to Georgia's and may fall short for EPA approval.

Response B5: EPA disagrees with these comments. With respect to the EPA-approved analysis to relax RVP requirements in Georgia, EPA notes that section 110(l) analyses are case-specific, and in the case of Georgia's request to relax RVP requirements for Atlanta, offsets were needed given the facts in that situation. *See* 84 FR 49470 (September 20, 2019). Unlike Georgia, Tennessee has no areas designated as nonattainment or maintenance for the ozone NAAQS and does not currently have any violating ozone monitors. As discussed in the April 2021 SNPRM, EPA is concluding that removal of the I/M program from the Tennessee SIP will not interfere with attainment or maintenance of the NAAQS or any other applicable requirement of the CAA.

In addition, motor vehicle emission budgets (sometimes referred to in practice as ''MVEBs'') are a component of the regional emissions analysis for implementing transportation conformity requirements. *See* 40 CFR 93.101 and 93.118. These comments are not relevant to this rulemaking because neither Hamilton County nor the Middle Tennessee Area are required to demonstrate transportation conformity for any pollutant, and therefore, no such

[27] The commenter's phrase ''2016 NEI'' appears to refer to the 2016v1 emissions modeling platform produced by the National Emissions Inventory Collaborative.

budgets are required to be developed for either area.

Comment B6: With respect to Hamilton County,[28] a commenter states ''Tennessee appears to be taking credit for closures of three [Tennessee Valley Authority (TVA)] power plants in its non-interference demonstration.'' The commenter then goes on to assert that EPA cannot allow offsets for Hamilton County from outside of the nonattainment area because that would be a violation of the *South Coast* decision. The commenter concludes that EPA must only consider offsets to the I/M program that occur within the nonattainment area.

Response B6: EPA disagrees with this comment. While the commenter does not provide a citation for the *South Coast* decision, EPA assumes the commenter is referring to the decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *South Coast Air Quality Management District* v. *EPA,* 882 F.3d 1138, 1146 (D.C. Cir. 2018), which addressed section 182 of the CAA and upheld EPA's interpretation that states may not take credit for reductions outside a nonattainment area for purposes of interim milestones towards attainment. This decision is not relevant to this action, as it addressed a different statutory provision not at issue here. Moreover, as discussed above, Tennessee is not providing offsets for the removal of the I/M program and, thus, no ''credits'' are being taken into account for facility closures or any other actions.

Comment B7: A commenter asserts that the trends in air quality in the two areas are inconsistent with reductions in precursor emissions, claiming that although emissions estimates for motor vehicles are decreasing, air quality is stagnant in Hamilton County and deteriorating in the Middle Tennessee Area. The commenter also expresses concern about relying on the assumption that each ton of a pollutant precursor emission has an equal impact on air quality as compared to every other ton of the same pollutant precursor, regardless of emission source and where in the state the emissions occur, citing the uniqueness and nonlinearity of ozone precursors. The commenter states that on-road emission increases would have a greater impact on regional air quality than calculated and that an increase in emissions due to the removal of the I/M program may have an accelerated deterioration impact on the Areas' air quality.

[28] This comment was received in docket EPA–R04–OAR–2019–0619 only.

Response B7: The air quality data summarized in Response A3 demonstrates that ozone air quality in Hamilton County and the Middle Tennessee Area is not worsening and is well below the 2015 8-hour ozone NAAQS. As discussed in the April 2021 SNPRM, removal of the I/M program from the Tennessee SIP will not interfere with attainment or maintenance of the NAAQS or any other applicable requirement of the CAA. In addition, as discussed in Response A4, I/M programs do not mandate emission controls systems on motor vehicles, unlike Federal motor vehicle emissions standards such as the Tier 3 rule. These Federal vehicle emission standards will remain with or without the I/M program in the Tennessee SIP for the Middle Tennessee Area and Hamilton County.

Comment B8: A commenter asserts that EPA must take into account recent court decisions that will ''have a devastating impact on the state's ability to ensure non-interference.'' The commenter specifically points to the ''Wisconsin and New York decisions,'' which ''vacated and remanded these programs back to EPA, essentially wiping them out entirely.'' The commenter claims that Tennessee cannot claim credit for any reductions attributable to the programs. Further, the commenter states EPA must check to make sure the state does not interfere with any downwind states' ability to meet the NAAQS.

Response B8: EPA has confirmed that the changes being approved by EPA in this action do not interfere with other states' ability to meet the 2008 ozone NAAQS. Although it is unclear from the comment, in describing programs promulgated under the good neighbor provision, CAA section 110(a)(2)(D)(i)(I), EPA assumes the commenter is referring to the Cross-State Air Pollution Rule (CSAPR) Update. The CSAPR Update addresses NO_X pollution transported to other states that significantly contributes to nonattainment or interferes with maintenance of the 2008 ozone NAAQS.[29] Among other things, the CSAPR Update requires reductions of NO_X from power plants during the annual ozone season from May 1 to September 30 in 22 states, including Tennessee. Although EPA found the CSAPR Update may only partially address the good neighbor obligations for most covered states, EPA found the rule fully addresses Tennessee's good neighbor obligation for this NAAQS. *See* 81 FR 74504, 74540 (October 26, 2016). That conclusion was based on an assessment of air quality in the eastern U.S. with implementation of the CSAPR Update, and it accounted for emissions from all source sectors, including mobile sources.

The CSAPR Update was reviewed and generally upheld in *Wisconsin* v. *EPA,* 983 F.3d 303 (D.C. Cir. 2019). Contrary to the commenter's assertion that the rule was vacated, the D.C. Circuit merely remanded the rule without vacatur because, for states other than Tennessee, the rule did not provide a full remedy by the next relevant attainment date under CAA section 181. Thus, the CSAPR Update remains in effect. The decision in *New York* v. *EPA,* 781 F. App'x 4 (D.C. Cir. 2019) vacated a separate rule, the CSAPR Close-Out, but this rule did not impose additional reductions and only purported to demonstrate, based on new modeling analysis of the year 2023, that the CSAPR Update was a full remedy for 20 states. In the *New York* case cited by commenter, the D.C. Circuit found this conclusion incorrect as a matter of law in light of its holding in *Wisconsin* because EPA analyzed a year beyond the next attainment date without sufficient justification. Tennessee's obligations were not at issue in the Close-Out rule. EPA notes that the aspects of the CSAPR Update affecting Tennessee were not challenged in the litigation over the rule and are not affected by the remand of the rule in *Wisconsin.*

EPA believes the projected increase in mobile source emissions from the removal of Tennessee's I/M program does not affect EPA's prior finding in the CSAPR Update that the State of Tennessee has no further interstate transport obligations for the 2008 8-hour ozone NAAQS. In the section 110(l) analysis for this action, EPA analyzed the impacts of removing the I/M program in Hamilton County and the Middle Tennessee Area from the subject final rule and found that the largest projected increase in mobile source emissions in these areas would result in a combined projected increase of 579 tons in 2022, or a 2 percent increase in total anthropogenic NO_X emissions in

[29] The CSAPR Update is a rule that followed the original CSAPR rulemaking in 2011. CSAPR requires certain states in the eastern half of the U.S. to improve air quality by reducing power plant emissions of NO_X and SO_2 that cross state lines and contribute to smog and soot pollution in downwind states. On September 7, 2016, EPA revised the CSAPR ozone season NO_X program by finalizing an update to CSAPR for the 2008 ozone National Ambient Air Quality Standards, known as the CSAPR Update. The CSAPR Update ozone season NO_X program was designed to largely replace the original CSAPR ozone season NO_X program starting on May 1, 2017, and further reduce summertime NO_X emissions from power plants in the eastern U.S.

these areas.[30] Therefore, the net change in total anthropogenic emissions across the entire State of Tennessee would be much less than the projected 2 percent increase in NO_X emissions.

On October 30, 2020, in the NPRM for the Revised CSAPR Update, EPA released and accepted public comment on updated 2023 modeling that used a 2016 emissions platform developed under the EPA/Multi-Jurisdictional Organization (MJO)/state collaborative project.[31] On March 15, 2021, EPA signed the final Revised CSAPR Update using the same modeling released at proposal.[32] In this modeling, EPA found that the highest contribution in 2023 from the entire State of Tennessee to any downwind receptor identified as having a nonattainment or maintenance problem for the 2008 ozone standard is projected to be 0.32 ppb. This amount of contribution is well below the 1 percent of the NAAQS threshold used in EPA's good neighbor framework for determining whether an upwind state contributes to a nonattainment or maintenance receptor under the 2008 ozone NAAQS (*i.e.,* 0.75 ppb). The small amount of projected increase in NO_X emissions in Tennessee as a result of this action, combined with the fact that the highest modeled contributions from this state are well below the 1 percent threshold, support the conclusion that the projected increase in mobile source emissions does not affect EPA's prior decision that Tennessee has no remaining interstate transport obligations under the 2008 ozone NAAQS.

This final action does not make any finding regarding Tennessee's interstate transport obligations for the 2015 8-hour ozone NAAQS. EPA has not yet taken final action on Tennessee's good neighbor SIP submission for the 2015 8-hour ozone NAAQS.

Comment B9: In response to EPA's April 2021 SNPRM, a commenter asserts that EPA's proposed conclusion that ''removal of the I/M program will not interfere with other states' ability to attain and maintain the 2008 ozone NAAQS'' is based on ''an air quality modeling-based technique'' performed for the Revised CSAPR Update that contains ''an error in the source apportionment model'' that was ''discovered in December 2020.'' Specifically, the commenter asserts that EPA ''does not know whether the specific *beta* version of the model used in their analysis contained the bug and associated source apportionment error.'' The commenter further states that ''[n]o known quantification of the error has been calculated and therefore it is unknown just how significant a change might be seen in the upwind state contribution to downwind receptors under the 2008 Ozone NAAQS or in potential application for future consideration of significant contribution under the 2015 Ozone NAAQS,'' and requests that EPA ''correct[] the source apportionment results and significant contribution calculations with the corrected version of the air quality model'' before making a final decision on removal of the I/M program from the Tennessee SIP.

Response B9: The commenter is correct that EPA relies on modeling developed for the Revised CSAPR Update (RCU) to determine that removal of the I/M program will not interfere with other states' ability to attain and maintain the 2008 ozone NAAQS under the good neighbor provision of the CAA. The modeling was made available to the public in the proposed RCU on October 30, 2020. *See* 85 FR 68964. The comment period for that rulemaking was open from October 30, 2020, through December 14, 2020. *Id.* Petitions for review of the RCU were due by June 29, 2021 in the D.C. Circuit. *See* 86 FR 23054, 23164 (April 30, 2021); *see also* CAA section 307(b). Additionally, EPA had previously determined that the CSAPR Update Federal implementation plan for Tennessee eliminated the State's significant contribution to downwind ozone nonattainment or maintenance for the 2008 8-hour ozone NAAQS. *See* 81 FR 74504, 74508 (October 26, 2016).

EPA disagrees that there was an error in the modeling that is material to this action. EPA used CAM_X version 7, beta6 for the air quality modeling to support the RCU. This version of CAM_X was the most up-to-date version of the model available at the time EPA performed air quality modeling for the RCU. The final CAM_X version 7.0 was released by the model developer, Ramboll, in May of 2020. This version was a different version than the beta6 version EPA used in its modeling.

Following release of version 7.0, the commenter is correct that an error was identified in the model code that affected model predicted concentrations and, therefore, contributions when the model was run using ozone or $PM_{2.5}$ source apportionment tools (SAT) for calculating source contributions to pollutant concentrations. Specifically, when CAM_X version 7.0 was run with SAT, the pollutant species emissions in the input point source emissions file did not match the species in the core model. For example, it is possible that the model might have assigned point source emissions of nitric oxide (NO) in the input emissions file to SO_2 in the model run. Thus, the effects on model predictions due to this type of mismatch of pollutant emissions and concentrations would likely be significant. Once this error was identified, it was quickly corrected.[33] Further, the code error in version 7.0 did not occur in CAM_X model runs when SAT were not invoked (*i.e.,* model runs without SA).

EPA contacted Ramboll to determine whether this coding error in the final release of version 7.0 was also present in any of the pre-release beta versions, particularly beta6, which EPA had used for the RCU. Ramboll initially stated that they had no information to determine whether or not the code error was in beta6 or any of the other version 7.0 beta codes. However, in consultation with Ramboll, EPA found that this could be determined by comparing the model predictions from a run without SAT to a companion model run with SAT invoked. If the predictions are the same, then the code EPA used for the RCU did not contain this coding error.

For the RCU, EPA had performed two CAM_X model runs for 2023, one without SAT and one with SAT. Thus, to respond to this comment, EPA compared the ozone predictions from these two runs to identify whether or not there are any notable differences between the two. As an example, Table 5 provides the maximum daily 8-hour ozone predictions for the 2023 emissions case for the month of July at the RCU nonattainment receptor site in Stratford, Connecticut. In addition, Figure 1, provided in the dockets for this final rulemaking, shows the maximum daily 8-hour ozone concentrations in each model grid cell on one of the days in June based on 2023 modeling without and with SAT.[34]

[30] In 2022, emissions of VOC are projected to increase by 740 tons, or a 1.7 percent increase in total anthropogenic VOC emissions. In the context of interstate ozone transport, EPA focuses on NO_X as the key ozone precursor pollutant.

[31] *See* 85 FR 68964, 68981 (October 30, 2020). The results of this modeling are included in a spreadsheet in the dockets for this action. The underlying modeling files are available for public review in the docket for the Revised CSAPR Update (EPA–HQ–OAR–2020–0272).

[32] *See* 86 FR 23054 at 23075, 23164 (April 30, 2021).

[33] From CAM_Xversion 7.10 release notes, January 5, 2021: ''Fixed bug that improperly mapped point source species to model species when running SAT. Implications: Core model point source species were improperly injected affecting core model concentrations and by extension SAT concentrations.'' *See https://camx-wp.azure websites.net/Files/Release_notes.v7.10.txt*

[34] Figure 1: Model-predicted 2023 maximum daily 8-hour ozone concentrations (ppb) for June 20 from CAM_X v7beta6 model runs without SAT (top)

Continued

In both the table and the figure, model predictions without and with SA are essentially identical. Thus, based on EPA's analysis, the Agency concludes that the error referenced by the commenter was not in the CAM_X model code that EPA used for the RCU modeling.

For the reasons above, EPA disagrees with the commenter's assertions regarding EPA's section 110(l) analysis for Tennessee's good neighbor obligations for the 2008 ozone NAAQS, and EPA is confident that the CAM_X modeling used in the RCU and to support this action is reliable.

TABLE 5—MODEL-PREDICTED MAXIMUM DAILY 8-HOUR OZONE CONCENTRATIONS (ppb) WITHOUT AND WITH SA FOR THE MONTH OF JULY AT THE STRATFORD, CONNECTICUT RECEPTOR SITE

Month	Day	2023 without SA	2023 with SA
7	1	38.945	38.945
7	2	33.380	33.380
7	3	42.748	42.748
7	4	58.685	58.685
7	5	45.056	45.056
7	6	75.488	75.488
7	7	61.284	61.283
7	8	50.325	50.325
7	9	28.097	28.097
7	10	34.460	34.460
7	11	30.646	30.646
7	12	64.362	64.362
7	13	43.699	43.699
7	14	49.537	49.537
7	15	59.426	59.426
7	16	58.222	58.222
7	17	68.067	68.067
7	18	77.420	77.421
7	19	32.556	32.556
7	20	36.040	36.040
7	21	64.457	64.457
7	22	72.682	72.682
7	23	37.790	37.790
7	24	47.433	47.433
7	25	82.696	82.696
7	26	40.812	40.812
7	27	48.118	48.118
7	28	62.982	62.982
7	29	52.004	52.004
7	30	60.485	60.485
7	31	42.559	42.559

Comment B10: A commenter identifies a number of regulations and policies that have either been rolled back or are proposed to be rolled back and expresses concern that the non-interference analysis did not account for the status of these rollbacks. The commenter states that air quality in the region has ''shown deterioration and movement towards nonattainment of the various NAAQS'' due to the rollbacks. Also, the commenter asserts that impacts from as far away as California or New York could impact air in Tennessee. The commenter also concludes that there are emissions increases attributable to the rollbacks and that they should be taken into account to accurately assess air quality prior to removal of the I/M programs from the SIP.

Response B10: EPA does not agree with the commenter's assertion that Tennessee should have or could have accounted for the final or proposed rollbacks identified by the commenter. As described above, Tennessee used the latest available information when the SIP revision was developed with EPA's MOVES2014b model and associated technical and policy guidance,[35] and the SIP revision's new on-road mobile source inventory was based on the EPA's vehicle and fuel standard rulemakings that are relevant for criteria pollutants.

With respect to a number of the rollbacks that the commenter directly asserts ''could be considered to have an impact on the Tennessee airshed,'' the commenter did not provide any documents or citations, therefore, in some cases, it is not entirely clear what changes the commenter is referring to. However, based on the changes that EPA believes the commenter to be concerned with, EPA disagrees that the changes will impact Tennessee air quality. For example, the rule titled ''Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review,'' 85 FR 57018 (September 14, 2020), was disapproved under the Congressional Review Act,[36] and the fuel volatility waivers under the rule titled ''Modifications to Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN Market Regulations,'' 84 FR 26980 (June 10, 2019), were vacated by the D.C. Circuit. *See Am. Fuel & Petrochemical Manufacturers* v. *EPA,* No. 19–1124, 2021 WL 2755032, at *7 (D.C. Cir. July

and with STA (bottom); both maps use the same 0 to 80 ppb scale for depicting concentrations.

[35] *See* EPA's July 2014 ''Policy Guidance on the Use of MOVES2014 for State Implementation Plan Development, Transportation Conformity, and Other Purposes'' (hereinafter MOVES 2014 Guidance). This document is available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100K4EB.pdf.*

[36] *See, e.g.,* White House signing statement at *https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/30/bills-signed-s-j-res-13-s-j-res-14-s-j-res-15/.*

2, 2021). The commenter also cites to a regulation that tracks—rather than controls—emissions;[37] denials of petitions that were before the agency that did not alter any emissions controls in place, some of which have been sent back to EPA;[38] and guidance that, by its very nature, does not impose binding requirements.[39]

With respect to any pending or proposed changes, per EPA's Emissions Inventory Guidance, ''[i]mpacts of proposed [Federal] rules are rarely included'' in EPA emissions projections ''as the changes in emissions impacts can be very large between proposed and final rules.''[40] *See* ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' May 2017, at 122.[41]

Furthermore, the commenter did not provide any technical information or analysis to substantiate their claims that the final or proposed rollbacks in combination with the removal of the I/M program from the Tennessee SIP would cause either Hamilton County or the Middle Tennessee Area to interfere with attainment or maintenance of the NAAQS. In addition, any possible air quality impacts from many of the rollbacks are speculative and hypothetical in nature. In contrast, EPA's analysis projects that 2022 total emissions without the I/M program are significantly less than 2014 total emissions for both the Middle Tennessee and Hamilton County areas. *See* Section III, above, and EPA's April 2021 SNPRM.[42]

C. Responses to Comments Outside the Scope of This Rulemaking

EPA received numerous comments that are outside the scope of this rulemaking. Even though EPA is not obligated to respond to these comments, EPA nonetheless has provided responses below in order to assist the public's understanding of EPA's final action.

Comment C1: Many commenters opposed to the removal of the I/M program acknowledge improved vehicle standards, but believe that the I/M program is still needed as a check to ensure that citizens are maintaining their vehicles (including for safety inspections).

Response C1: To the extent commenters are concerned that removal of the I/M program will result in citizens neglecting to maintain their vehicles or affecting vehicle safety, those concerns are outside the scope of this rulemaking. States have primary responsibility for deciding how to attain and maintain the NAAQS. Tennessee has opted to remove the I/M program from its SIP. Under the CAA, the sole issue for EPA's consideration in this rulemaking is whether removing the I/M program from the SIP would be consistent with CAA provisions, including whether discontinuation is expected to interfere with attainment and maintenance of air quality standards or any applicable requirement of the CAA. EPA is approving removal of the I/M program from the SIP because removal is consistent with the requirements of the CAA. The option the commenter suggests to continue an I/M program to ensure vehicles are maintained may be considered and implemented at the local level without EPA's review or approval.

EPA agrees that vehicles are cleaner now as a result of EPA rules since the early 2000s that control emissions from on-road vehicles. EPA refers commenters to Response A4 for more information concerning EPA standards.

Comment C2: A commenter opines that the I/M program is needed and notes ''the testing procedures and equipment need updated badly.'' The commenter goes on to state that ''A vehicle should not fail emissions for a certain code that has nothing to do with emissions output. All vehicles should be tested by their exhaust to see exactly what the air to fuel ratio is. The software needs updates as well. Very old equipment.'' Other commenters expressed concerns about whether the testing procedures themselves met the intended purpose of the I/M program. Some commenters questioned why the I/M program was only required in six counties in Tennessee and wanted the program removed for those counties, while others wanted the program expanded statewide and even nationwide. Other commenters expressed concerns about I/M program avoidance. They noted that citizens register their vehicles in surrounding counties that do not have I/M requirements, yet commute back and forth or even live in areas where I/M is required. Some of the commenters expressed concern about program avoidance as support for the removal of the I/M program. Commenters opined on whether or not the cost of the program and related expenses were worth keeping the program. Some commenters expressed concern related to the impact of the test and repair costs on the elderly and low-income citizens. Others asserted that this was a way to generate revenue and an unfair tax. Those who did not support removal of the I/M program opined that the I/M program was worth the benefit for air quality. Another commenter expressed concerns with regard to ''replacements'' to the I/M program. The commenter also stated that ''we . . . must be able to maintain the progress that has been made.'' One commenter opined that there is a ''likelihood that current income limitations will impact future replacement of aging vehicles.'' Another commenter said that ''[t]he emissions program is doing more good than harm for the community.'' Some adverse comments indicated that removal of I/M could lead to people not feeling the need to maintain their cars, which will lead to even bigger problems.

Response C2: These comments are all outside the scope of this rulemaking. The design, technology, and implementation issues associated with

[37] National Performance Management Measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program, 83 FR 24920 (May 31, 2018).

[38] *See, e.g., New York* v. *EPA,* 964 F.3d 1214 (D.C. Cir. 2020); *Maryland* v. *EPA,* 958 F.3d 1185 (D.C. Cir. 2020).

[39] *See, e.g.,* August 31, 2018 Memo from Peter Tsirigotis (OAQPS) re Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate transport State Implementation Plan submissions for the 2015 Ozone National Ambient Air Quality Standards, available at *https://www.epa.gov/sites/default/files/2018-09/documents/contrib_thresholds_transport_sip_subm_2015_ozone_memo_08_31_18.pdf* (Memo ''does not impose binding, enforceable requirements on any party''); October 9, 2020 Memo from Andrew Wheeler re Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans (''This memorandum does not alter in any way the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act. In order to change those determinations and alter or withdraw the 2015 SIP call, subsequent actions will need to be taken.'').

[40] EPA notes that the commenter references ''withdrawal of a proposed rule aimed at reducing pollutants, including air pollution, at sewage treatment plants.'' However, the commenter cites to a final rule ''National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works Residual Risk and Technology Review,'' 82 FR 49513 (Oct. 26, 2017), within which EPA did not take final action on several provisions that were proposed, but did not withdraw proposal as to those provisions. To the extent that the commenter refers to the provisions that were not acted upon, those changes remain pending, and thus, EPA's emissions projections will not take those into account.

[41] Available at *https://www.epa.gov/sites/production/files/2017-07/documents/ei_guidance_may_2017_final_rev.pdf.*

[42] *See* 86 FR 21248. With respect to the Middle Tennessee Area: ''Even without the I/M program in 2022, emissions of NO_X, VOC, and CO are projected to decrease by 47.1 percent, 15.1 percent, and 23.9 percent, respectively, from 2014 levels.'' With respect to Hamilton County: ''Even without the I/M program in 2022, emissions of NO_X, VOC, and CO are expected to decrease by 27.0 percent, 8.1 percent and 18.7 percent, respectively from 2014 levels.''

an I/M program are outside this scope of this rulemaking. With regard to the geographical coverage area of Tennessee's I/M program, EPA notes that the I/M program is not currently mandated by the CAA or EPA regulations in any part of Tennessee or throughout the entirety of the United States.[43] Additionally, the cost structure of individual I/M programs is not a factor EPA evaluates when determining approvability of a SIP revision to remove I/M requirements. A commenter's assertion that the SIP revision is a ''repeal and replace'' is not clear. Tennessee's February 2020 SIP revisions only addressed removal of the I/M program, without a replacement program or offsets.

See Responses A5 and A10 regarding the scope of EPA's review and the discretionary nature of Tennessee's program, and the April 2021 SNPRM regarding EPA's determination that section 110(l) requirements have been met.

Comment C3: Commenters suggest that EPA needs to monitor emissions released from mobile sources outside of I/M programs, such as planes, trains, trucks, and buses in order to either improve air quality or prevent it from deteriorating.

Response C3: These comments are outside the scope of this rulemaking. As discussed in Response A5, CAA section 110(k) requires EPA to approve SIP revisions that meet all applicable CAA requirements. While monitoring and regulating emissions from planes, trains, trucks, buses and any other ''mobile source'' that are not passenger vehicles is out of scope of this action, EPA notes that the Agency's Office of Transportation and Air Quality (OTAQ) addresses emissions from the range of mobile sources. The commenters are encouraged to visit OTAQ's website for more information at *https://www.epa.gov/aboutepa/about-office-air-and-radiation-oar#otaq* to learn more about these programs.

Comment C4: A commenter opines that removing the I/M program is a bad idea and recalls polluting cars and trucks before the I/M program was enacted. The commenter goes on to say ''My only issue in Chattanooga is the mayor has put in bike lanes everywhere that are used very seldomly and reducing the auto lanes creates huge traffic backups.'' The commenter goes on to say that bike lanes cause more pollution and offsets what emissions benefits are achieved.

Response C4: For reasons explained in the April 2021 SNPRM, EPA has determined that section 110(l) requirements have been met. EPA also notes that cars and trucks are cleaner, absent the I/M program, because of Federal engine and fuel standards that all vehicles must comply with. Thus, vehicles today are much cleaner than they were when the I/M program was enacted in Hamilton County in the early 2000s, as vehicle and fuel standards have become more stringent since then. To the extent that the commenter expresses concerns about bike lanes and their impact on traffic and emissions, these comments are outside the scope of this rulemaking as I/M programs do not regulate bike lanes.

Comment C5: A commenter in support of the emissions testing in Hamilton County states that ''[i]t not only has helped clean up the air in the county, it has also drawn other large businesses to our Area. Volkswagen and Amazon both came here due in part to Hamilton County's emission testing.'' Another commenter expresses concern for their industry and stated: ''If Chattanooga and Nashville Ozone Standards are changed in the future and the EPA is no longer able to effectively regulate 'on road' mobile source emissions, stationary sources and our member's off-road fleets could, and likely would, be over regulated due the inability to regulate the much more impactful on-road mobile sources. This could create a severe adverse impact to our industry.''

Response C5: These comments are outside the scope of this rulemaking. In evaluating whether a SIP revision is approvable, EPA must consider the relevant CAA provisions and does not consider what impacts, if any, the SIP revision would have for attracting businesses to an area. Nor does EPA try to anticipate what the State may do for future air quality planning. As detailed in the April 2021 SNPRM, EPA has determined that approval of these SIP revisions will not interfere with attainment or maintenance of the NAAQS or any other requirement of the CAA. EPA's action to remove the I/M program does not preclude the state or local government from maintaining an I/M program at the state or local level.

Comment C6: One commenter asserted that during Tennessee's state comment period it did not have access to inventory materials in timeframes necessary to conduct an independent review and modeling of the I/M program removal.

Response C6: This comment is outside the scope of this rulemaking because it relates to Tennessee's State comment period. In addition, EPA notes that the inventories were available to the public during EPA's public comment period on the June 2020 NPRMs and the April 2021 SNPRM. *See* regulations.gov document numbers EPA–R04–OAR–2019–0618–0002 (pdf pages 16 and 21) and EPA–R04–OAR–2019–0619–0002 (pdf pages 16, 17 and 22).

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, EPA is finalizing the removal of Tennessee Regulation Chapter 1200–3–29—''Light Duty Vehicle Inspection and Maintenance;'' and Nashville-Davidson County Regulation No. 8—''Regulation of Emissions from Light-Duty Motor Vehicles through Mandatory Vehicle Inspection and Maintenance Program,'' from the Tennessee SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VI. Final Action

EPA is approving the SIP revisions and removing the I/M requirements for the Middle Tennessee Area (*i.e.,* Davidson, Sumner, Rutherford, Williamson and Wilson Counties) and Hamilton County from the Tennessee SIP. EPA is taking these actions because removing the requirements is consistent with the CAA and applicable regulations.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve SIP submissions that comply 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 approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these 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

[43] Except as required by CAA sections 182(a)(2)(B), 182(b)(4), and 182(c)(3) for certain ozone nonattainment areas and sections 187(a)(4) and 187(a)(6) for certain CO nonattainment areas.

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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Do not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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

List of Subjects in 40 CFR Part 52

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

Dated: August 5, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart RR—Tennessee

■ 2. Section 52.2220 is amended by:

■ a. In paragraph (c):

■ i. In Table 1, removing the heading and all entries for ''Chapter 1200–3–29—Light Duty Vehicle Inspection and Maintenance'' in their entirety; and

■ ii. In Table 5, under the heading ''Article II. Standards for Operation,'' removing the entry for ''Regulation No. 8—Regulation of Emissions from Light-Duty Motor Vehicles through Mandatory Vehicle Inspection and Maintenance Program'' in its entirety.

■ b. In paragraph (e), in the table, revising the entry for ''Attainment Demonstrations for Early Action Compact Areas''.

The revision reads as follows:

§ 52.222052 Identification of plan.

* * * * *

(e) * * *

EPA–APPROVED TENNESSEE NON–REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
*	* *	*		* * *
Attainment Demonstrations for Early Action Compact Areas.	Chattanooga, Nashville, and Tri-Cities Early Action Compact Areas.	12/31/04	8/17/2021	With the exception of Tennessee Regulation Chapter 1200–3–29 and Nashville-Davidson County Regulation No. 8, with a State effective date of 2/26/2020.
*	* *	*		* * *

[FR Doc. 2021–17214 Filed 8–16–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0164; FRL–8678–01–OCSPP]

C10-C18-Alkyl Dimethyl Amine Oxides (ADAOs); Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of C10-C18-Alkyl dimethyl amine oxides herein referred to as ADAOs when used as inert ingredients (surfactants/foaming agents) in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment and utensils, limited to not more than 1,350 parts per million (ppm) at the end-use concentration in pesticide formulations. Technology Sciences Group Inc. on behalf of Mason Chemical Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment to an existing requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of ADAOs when used in accordance with this exemption.

DATES: This regulation is effective August 17, 2021. Objections and requests for hearings must be received on or before October 18, 2021, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0164, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0164 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 18, 2021. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0164, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Petition for Exemption

In the **Federal Register** of March 22, 2021 (86 FR 15162) (FRL–10021–44), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11435) by Technology Sciences Group Inc., 1150 18th Street NW, Suite 1000, Washington, DC 20036, on behalf of Mason Chemical Company, 9075 Centre Point Dr., Suite 400, West Chester, OH 45069. The petition requested that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of ADAOs when used as inert ingredients used as surfactants and foaming agents in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment and utensils. That document referenced a summary of the petition prepared by Technology Sciences Group Inc. on behalf of the Mason Chemical Company, the petitioner, which is available in the docket at *http://www.regulations.gov.*

There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has limited the maximum concentration of ADAOs to not more than 1,350 ppm at the end-use concentration in pesticide formulations. This limitation is based on the Agency's risk assessment, which can be found at *http://www.regulations.gov* in document ''C10-C18-Alkyldimethylamine oxides; Human Health Risk Assessment and Ecological Effects Assessment to Support Proposed Exemption from the Requirement of a Tolerance When Used as Inert Ingredients in Pesticide Formulations'' in docket ID number EPA–HQ–OPP–2021–0164.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

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

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for ADAOs, including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with ADAOs follows.

On October 7, 2009, EPA published in the **Federal Register** a final rule establishing an exemption from the requirement of a tolerance for residues of ADAOs when used as an inert ingredient in pesticide formulations applied to raw agricultural commodities pre- and post-harvest. See 74 FR 51474 (FRL–8437–3). That document contains a summary of the toxicological profile, toxicological points of departure/levels of concern, certain assumptions for exposure assessment, and the Agency's determination regarding the children's safety factor, which have not changed except as described below.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by ADAOs as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in Unit IV.A of the final rule published in the **Federal Register** of October 7, 2009 (74 FR 51474) (FRL–8437–3).

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to ADAOs, EPA considered exposure under the proposed exemption from the requirement of a tolerance. To assess dietary exposures from ADAOs in food, the Agency calculated the Daily Dietary Dose (DDD) and the Estimated Daily Intake (EDI) using U.S. Food and Drug Administration (FDA) Food Contact Surface Sanitizing Solution Dietary Exposure Assessment Model. EPA's assessment used FDA's default assumptions for the amount of residual solution or quantity of solution remaining on the treated surface without rinsing with potable water (1 mg/cm^2); surface area of the treated surface which comes into contact with food (4,000 cm^2); and the pesticide

migration fraction (100%). EPA used an application rate of ADAOs of 1,350 ppm, which was provided by the petitioner. EPA also derived exposure amounts for population subgroups by accounting for body weights and adjusting for relative food consumption using data from the National Health and Nutrition Examination Survey (NHANES) (specifically the 2003–2008 survey data).

ADAOs are currently exempt from the requirements of a tolerance under 40 CFR 180.910 for use as inert ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest limited to 15% by weight in pesticide formulations and use as a surfactant. One of the ADAO chemicals in the group, alkyl (C10-16) dimethyl amine oxide, is also approved as an antibacterial agent in dishwashing detergent for residential use. Potential dietary exposures from these uses were included in the overall dietary exposure.

2. *Dietary exposure from drinking water.* The proposed use of ADAOs will not result in measurable levels in surface water or ground water and therefore will not contribute to dietary exposure.

As stated above, ADAOs are approved for pre- and post-harvest uses and for use in dishwashing detergent. Dietary exposures from drinking water due to these uses are included in the overall dietary exposure.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Indoor residential exposure may occur from use of ADAOs as inert ingredients in antimicrobial pesticide products applied to food contact surfaces. Indoor and outdoor residential exposure may also occur as a result of current approved uses of ADAOs in pesticide formulations for pre- and post-harvest application and in dishwashing detergent. ADAOs are also used in soap and hair products. The Agency's assessment of residential exposure combines exposure from all of the aforementioned uses. A summary of certain other assumptions for exposure assessment of ADAOs is discussed in Unit IV.C. of the final rule published in the **Federal Register** of October 7, 2009 (74 FR 51474) (FRL–8437–3).

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) and (c)(2)(B) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found ADAOs to share a common mechanism of toxicity with any other substances, and ADAOs do not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has assumed that ADAOs do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

Section 408(b)(2)(C) and (c)(2)(B) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. The rationale for the Agency's determination regarding the children's safety factor is discussed in unit IV.D of the final rule published in the **Federal Register** of October 7, 2009 (74 FR 51474) (FRL–8437–3).

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, ADAOs are not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described for chronic exposure, EPA has concluded that chronic exposure to ADAOs from food and water will utilize 91% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

ADAOs are currently used as an inert ingredient in pesticide products that are registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to ADAOs.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 171 and 101 for the U.S. population and children 1 to 2 years old, respectively. Because EPA's level of concern for ADAOs is MOEs of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

ADAOs are currently used as inert ingredients in pesticide products that are registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to ADAOs.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 322 and 104 for the U.S. population and children 1 to 2 years old, respectively. Because EPA's level of concern for ADAOs are MOEs

of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* The Agency has not identified any concerns for carcinogenicity relating to ADAOs.

6. *Determination of safety.* Taking into consideration all available information on ADAOs, EPA has determined that there is a reasonable certainty that no harm to the general population or any population subgroup, including infants and children, will result from aggregate exposure to residues of ADAOs. Therefore, the establishment of an exemption from the requirement of a tolerance under 40 CFR 180.940(a) for residues of ADAOs when used as inert ingredients in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment, and utensils limited to not more than 1,350 ppm at the end-use concentration in pesticide formulations, is safe under FFDCA section 408.

V. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of ADAOs in or on any food commodities. EPA is establishing limitations on the amount of ADAOs that may be used in pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment, and utensils. These limitations will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 1350 ppm of ADAOs in the end-use concentration in pesticide formulations.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.940(a) for C10-C18-Alkyl dimethyl amine oxides (CAS Reg. Nos. 1643–20–5, 2571–88–2, 2605–79–0, 3332–27–2, 61788–90–7, 68955–55–5, 70592–80–2, 7128–91–8, 85408–48–6, and 85408–49–7) when used as inert ingredients (surfactants/foaming agents) in antimicrobial pesticide formulations applied to food-contact surfaces in public eating places, dairy-processing equipment, food-processing equipment and utensils limited to not more than 1,350 ppm at the end-use concentration in pesticide formulations.

VII. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: August 10, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.940, in paragraph (a), amend table 180.940(a) by adding in alphabetical order an entry for the inert ingredient ''C10-C18-Alkyl dimethyl amine oxides'' to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

TABLE 180.940(a)

Inert ingredients	CAS reg. No.	Limits
* *	* * *	* *
C10-C18-Alkyl dimethyl amine oxides.	1643–20–5, 2571–88–2, 2605–79–0, 3332–27–2, 61788–90–7, 68955–55–5, 70592–80–2, 7128–91–8, 85408–48–6, and 85408–49–7.	When ready for use, the end-use concentration is not to exceed 1,350 ppm.
* *	* * *	* *

* * * * *

[FR Doc. 2021–17450 Filed 8–16–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 9

[PS Docket Nos. 20–291 and 09–14; FCC 21–80; FR ID 40050]

911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (the FCC or Commission) adopts rules to implement the Don't Break Up the T-Band Act of 2020, which is section 902 of the Consolidated Appropriations Act, 2021, Division FF, Title IX (section 902). Section 902 directs the Commission to issue final rules, not later than 180 days after the date of enactment of section 902, designating the uses of 911 fees by states and taxing jurisdictions that constitute 911 fee diversion for purposes of certain sections of the United States Code, as amended by section 902. This Report and Order adopts rules that implement the provisions of section 902 requiring Commission action and that help to identify those uses of 911 fees by states and other jurisdictions that support the provision of 911 services.

DATES:

Effective date: This final rule is effective October 18, 2021.

Compliance date: Compliance will not be required for 47 CFR 9.25(b) until the Commission publishes a document in the **Federal Register** announcing that compliance date.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Brenda Boykin, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–2062 or via email at *Brenda.Boykin@fcc.gov;* or Jill Coogan, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–1499 or via email at *Jill.Coogan@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 21–80, adopted on June 24, 2021 and released on June 25, 2021, and the Erratum released on August 12, 2021. The complete text of this document is available for download at *https://docs.fcc.gov/public/attachments/FCC-21-80A1.pdf.* To request this document in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act

The requirements in 47 CFR 9.25(b) constitute a modification of the information collection with Office of Management and Budget (OMB) Control No. 3060–1122. This modified information collection is subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The modified information collection will be submitted to OMB for review under 47 U.S.C. 3507(d), and compliance with 47 CFR 9.25(b) will not be required until after approval by OMB.

Congressional Review Act

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

Synopsis

I. Background

Congress has had a longstanding concern about the practice by some states and local jurisdictions of diverting 911 fees for non-911 purposes. Congress initially enacted measures to limit 911 fee diversion, codified in 47 U.S.C. 615a–1 (section 615a–1).[1] Specifically, section 615a–1(f)(1) provided that nothing in the New and Emerging Technologies (NET) 911 Act, the Communications Act of 1934, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation for the support or implementation of 9–1–1 or enhanced 9–1–1 services, provided that the fee or charge is obligated or expended only in support of 9–1–1 and enhanced 9–1–1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. The NET 911 Act also required the Commission to report annually on the collection and distribution of fees in each state for the support or implementation of 911 or E911 services, including findings on the amount of revenues obligated or expended by each state "for any purpose other than the purpose for which any such fees or charges are specified."[2] Pursuant to this provision, the Commission has reported annually to Congress on 911 fee diversion every year since 2009. In October 2020, the Commission released a Notice of Inquiry seeking comment on the effects of fee diversion and the most effective ways to dissuade states and jurisdictions from continuing or instituting the diversion of 911/E911

[1] New and Emerging Technologies 911 Improvement Act of 2008, Public Law 110–283, 122 Stat. 2620 (NET 911 Act). The NET 911 Act enacted 47 U.S.C. 615a–1 and also amended 47 U.S.C. 222, 615a, 615b, and 942. *See* 47 U.S.C. 615a–1 Editorial Notes.

[2] These annual reports can be viewed at viewed at *https://www.fcc.gov/general/911-fee-reports.*

fees.[3] Shortly thereafter, Congress enacted section 902.[4]

Section 902 requires the Commission to take additional action with respect to 911 fee diversion. Specifically, section 902(c)(1)(C) adds a new paragraph (3)(A) to 47 U.S.C. 615a–1(f) that directs the Commission to adopt rules ''designating purposes and functions for which the obligation or expenditure of 9–1–1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable'' for purposes of section 902 and the Commission's rules. The newly added 47 U.S.C. 615a–1(f)(3)(B) states that these purposes and functions shall be limited to ''the support and implementation of 9–1–1 services'' provided by or in the state or taxing jurisdiction imposing the fee or charge, and ''operational expenses of public safety answering points'' within such state or taxing jurisdiction. The new section also states that, in designating such purposes and functions, the Commission shall consider the purposes and functions that states and taxing jurisdictions specify as the intended purposes and functions for their 911 fees or charges, and ''determine whether such purposes and functions directly support providing 9–1–1 services.''

Section 902 also amends 47 U.S.C. 615a–1(f)(1) to provide that the rules adopted by the Commission for these purposes will apply to states and taxing jurisdictions that impose 911 fees or charges. Whereas the prior version of section 615a–1(f)(1) referred to fees or charges ''obligated or expended only in support of 9–1–1 and enhanced 9–1–1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge,'' the amended version refers to the obligation or expenditure of fees or charges ''*consistent with the purposes and functions designated in the final rules issued under paragraph (3) as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable.*'' (Emphasis added.)

In addition, section 902(c) establishes a process for states and taxing jurisdictions to seek a determination that a proposed use of 911 fees should be treated as acceptable even if it is for a purpose or function that has not been designated as such in the Commission's rules. Specifically, newly added 47 U.S.C. 615a–1(f)(5) provides that a state or taxing jurisdiction may petition the Commission for a determination that an obligation or expenditure of a 911 fee or charge ''for a purpose or function other than a purpose or function designated under [section 615a–1(f)(3)(A)] should be treated as such a purpose or function,'' *i.e.,* as acceptable for purposes of this provision and the Commission's rules. The new section 615a–1(f)(5) provides that the Commission shall grant the petition if the state or taxing jurisdiction provides sufficient documentation that the purpose or function ''(i) supports public safety answering point functions or operations,'' or ''(ii) has a direct impact on the ability of a public safety answering point to—(I) receive or respond to 9–1–1 calls; or (II) dispatch emergency responders.''

Section 902(d) requires the Commission to create the ''Ending 9–1–1 Fee Diversion Now Strike Force'' (911 Strike Force), which is tasked with studying ''how the Federal Government can most expeditiously end diversion'' by states and taxing jurisdictions and reporting to Congress on its findings within 270 days of the statute's enactment.[5] In February, the agency announced the formation of the 911 Strike Force and solicited nominations. On May 21, 2021, the agency announced the 911 Strike Force membership, which includes a diverse array of experts from across the nation representing Federal, state, and local government agencies, state 911 administrators, a consumer group, and organizations representing 911 professionals. The 911 Strike Force held its inaugural meeting on June 3, 2021, and has formed three working groups that will examine: (i) The effectiveness of any Federal laws, including regulations, policies, and practices, or budgetary or jurisdictional constraints regarding how the Federal Government can most expeditiously end 911 fee diversion; (ii) whether criminal penalties would further prevent 911 fee diversion; and (iii) the impacts of 911 fee diversion. Consistent with section 902(d), the 911 Strike Force will complete its work and submit its final report to Congress by September 23, 2021. In addition, Section 902(d)(1) provides that if the Commission obtains evidence that ''suggests the diversion by a State or taxing jurisdiction of 9 1 1 fees or charges,'' the Commission shall submit such information to the 911 Strike Force, ''including any information regarding the impact of any underfunding of 9–1–1 services in the State or taxing jurisdiction.''

Section 902(d)(2) provides that the Commission shall also include evidence it obtains of diversion and underfunding in future annual fee reports, beginning with the first report ''that is required to be submitted after the date that is 1 year after the date of the enactment of this Act.''[6] In addition, section 902(c)(1)(C) provides that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after the date of the enactment of the new legislation, ''such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the [annual report to Congress on 911 fees].'' Finally, section 902(d)(4) prohibits any state or taxing jurisdiction identified as a fee diverter in the Commission's annual report from participating or sending a representative to serve on any committee, panel, or council established to advise the First Responder Network Authority (FirstNet) under 47 U.S.C. 1425(a) or any advisory committee established by the Commission.

Section 902 does not require states or taxing jurisdictions to impose any fee in connection with the provision of 911 service. As revised, the proviso to section 615a–1 states that nothing in the Act or the Commission's rules ''shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services'' specifically designated by the taxing jurisdiction ''for the support or implementation of 9–1–1 or enhanced 9–1–1 services, provided that the fee or charge is obligated or expended only in support of 9–1–1 and enhanced 9–1–1 services, or enhancements of such services, consistent with the purposes and functions designated in [the Commission's forthcoming rules] as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable.'' In this regard, section 902 charges the Commission with adopting rules defining what relevant statutory provisions mean, a responsibility we fulfill in adopting the rules in this Report and Order. In this regard, when we define and describe

[3] 911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008, PS Docket Nos. 20–291 and 09–14, Notice of Inquiry, 35 FCC Rcd 11010, 11010, para. 1 (2020). The Commission received eight comments and seven reply comments in response to the Notice of Inquiry. These filings can be viewed in the FCC's electronic comment filing system (ECFS) at *https://www.fcc.gov/ecfs/,* under PS Docket Nos. 20–291 and 09–14.

[4] Consolidated Appropriations Act, 2021, Public Law 116–260, Division FF, Title IX, Section 902, Don't Break Up the T-Band Act of 2020 (section 902).

[5] 47 U.S.C. 615a–1 Statutory Notes (as amended); sec. 902(d)(3).

[6] 47 U.S.C. 615a–1 Statutory Notes (as amended); section 902(d)(3). September 23, 2021 is 270 days after the enactment date of section 902.

''acceptable'' expenditures in this Report and Order or in our rules, we mean to use that term as Congress did in section 902(c)(1)(C).

On February 17, 2021, we adopted a notice of proposed rulemaking (NPRM), which proposed rules to implement section 902 and address 911 fee diversion.[7] The Commission received twenty-eight comments, nine reply comments, and five ex parte filings.

II. Discussion

With this Report and Order, we adopt rules to implement the provisions of section 902 that require Commission action. Specifically, we amend part 9 of our rules to establish a new subpart I that addresses 911 fees and fee diversion in accordance with and for the purposes of the statute. The new subpart I rules (1) clarify what does and does not constitute the kind of diversion of 911 fees that has concerned Congress (and the Commission); (2) establish a declaratory ruling process for providing further guidance to states and taxing jurisdictions on fee diversion issues; and (3) codify the specific obligations and restrictions that section 902 imposes on states and taxing jurisdictions, including those that engage in diversion as defined by our rules.

The record indicates that commenters are divided on whether expenditures of 911 fees for public safety radio systems and related infrastructure should be considered acceptable for Section 902 purposes. Our new rules provide additional guidance on this question. We also refer additional questions concerning the application of our new rules to the 911 Strike Force for the development of recommendations. We also note that the petition process established by section 902 provides a mechanism for further consideration of this issue in the context of specific fact patterns, after adoption of the initial rules in this proceeding. We conclude that these changes to part 9 will advance Congress's stated objectives in section 902 in a cost-effective manner that is not unduly burdensome to providers of emergency telecommunications services or to state and taxing jurisdictions. In sum, the rules we adopt in this document closely track the statutory language addressing 911 fee diversion, and seek to promote transparency, accountability, and integrity in the collection and expenditure of fees collected for 911 services, while providing stakeholders reasonable guidance as part of implementing section 902.

A. Definitions and Applicability

Section 902 defines certain terms relating to 911 fees and fee diversion. To promote consistency, the NPRM proposed to codify these definitions with certain modifications. As described below, we adopt these definitions as proposed.[8]

1. 911 Fee or Charge

Background. Section 902 defines ''9–1–1 fee or charge'' as ''a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State or taxing jurisdiction for the support or implementation of 9–1–1 services.'' In the NPRM, we proposed to codify this definition in the rules. However, we also noted that the statutory definition in section 902 does not address services that may be subject to 911 fees other than Commercial Mobile Radio Services (CMRS) and IP-enabled voice services. As we observed in the NPRM, the reason for this omission is unclear. For example, virtually all states impose 911 fees on wireline telephone services and have provided information on such fees for inclusion in the agency's annual fee reports. In addition, as 911 expands beyond voice to include text and other non-voice applications, states could choose to extend 911 fees to such services in the future.

To promote regulatory parity and avoid gaps that could inadvertently frustrate the rapid deployment of effective 911 services, including advanced Next Generation 911 (NG911) services, we proposed to define ''911 fee or charge'' in the rules to include fees or charges applicable to ''other emergency communications services'' as defined in section 201(b) of the NET 911 Act. Under the NET 911 Act, the term ''other emergency communications service'' means ''the provision of emergency information to a public safety answering point via wire or radio communications, and may include 9–1–1 and enhanced 9–1–1 service.'' We noted that this proposed modification will make clear that the rules in subpart I extend to all communications services regulated by the Commission that provide emergency communications, including wireline services, and not just to CMRS and IP-enabled voice services. We also proposed in the NPRM to extend the definition of ''911 fee or charge'' to include fees or charges designated for the support of ''public safety,'' ''emergency services,'' or similar purposes if the purposes or allowable uses of such fees or charges include the support or implementation of 911 services.

Decision. We adopt our NPRM proposal. The Michigan 911 Entities support including ''other emergency communications services'' in the definition, and no commenter opposes this proposal. We find that this expansion of the definition of ''911 fee or charge'' is reasonably ancillary to the Commission's effective performance of its statutorily mandated responsibilities under section 902 and other Federal 911-related statutes and Communications Act statutory provisions that, taken together, establish an overarching Federal interest in ensuring the effectiveness of the 911 system. The Commission's general jurisdictional grant includes the responsibility to set up and maintain a comprehensive and effective 911 system, encompassing a variety of communication services in addition to CMRS and IP-enabled voice services. Section 251(e)(3) of the Communications Act of 1934, which directs the Commission to designate 911 as the universal emergency telephone number, states that the designation of 911 ''shall apply to both wireline and wireless telephone service,'' which evidences Congress's intent to grant the Commission broad authority over different types of communications services in the 911 context.[9] Similarly, RAY BAUM'S Act directed the Commission to consider adopting rules to ensure that dispatchable location is conveyed with 911 calls ''regardless of the technological platform used.''[10] In addition, section 615a–1(e)(2) provides that the Commission ''shall enforce this section as if this section was a part of the Communications Act of 1934 [47 U.S.C. 151 *et seq.*]'' and that ''[f]or purposes of this section, any violations of this section, or any regulations promulgated under this section, shall be considered to be a violation of the Communications Act of 1934 or a regulation promulgated under that Act, respectively.''

Accordingly, we conclude that including ''other emergency communications services'' within the scope of the definition of 911 fees is also reasonably ancillary to the Commission's effective performance of

[7] 86 FR 12399 (March 3, 2021).

[8] We also clarify in the introductory language of this section of the rules that where the Commission uses the term ''acceptable'' in subpart I, it is for purposes of the Consolidated Appropriations Act, 2021, Public Law 116–260, Division FF, Title IX, section 902(c)(1)(C).

[9] 47 U.S.C. 251(e)(3).

[10] *See* Consolidated Appropriations Act, 2018, Public Law 115–141, 132 Stat. 348, Division P, Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (RAY BAUM'S Act) section 506(c)(1) (codified at 47 U.S.C. 615 Notes).

its statutorily mandated responsibilities for ensuring that the 911 system, including 911, E911, and NG911 calls and texts from any type of service, is available, that these 911 services function effectively, and that 911 fee diversion by states and other jurisdictions does not detract from these critical, statutorily recognized purposes. As we stated in the NPRM, diverting fees collected for 911 service of any type, whether it be wireline, wireless, IP based, or text, undermines the purpose of these Federal statutes by depriving the 911 system of the funds it needs to function effectively and to modernize 911 operations.

We also adopt our proposal in the NPRM to extend the definition of ''911 fee or charge'' to include multi-purpose fees or charges designated for the support of ''public safety,'' ''emergency services,'' or similar purposes if the purposes or allowable uses of such fees or charges include the support or implementation of 911 services. We find that this aspect of the definition is consistent with the purpose of section 902 with respect to 911 fees and charges, which is to discourage states and taxing jurisdictions from diverting these fees and charges for purposes that do not directly benefit the 911 system. Moreover, as we noted in the NPRM, this aspect of the definition is consistent with the approach taken in the agency's annual fee reports, which have found that the mere labelling of a fee is not dispositive and that the underlying purpose of the fee is relevant in determining whether it is (or includes) a 911 fee within the meaning of the NET 911 Act.

Some commenters oppose the proposal to extend the definition of ''911 fee or charge'' to include multi-purpose fees. The New York State Division of Homeland Security and Emergency Services (NYS DHSES) asserts that the Commission's statutory authority is limited to ''specifically designated'' 911 fees or charges, and that the Commission lacks authority to regulate fees and charges designated for other purposes. The Boulder Regional Emergency Telephone Service Authority (BRETSA) argues that extending the definition as proposed will limit 911 funding because some states (including Colorado) have a constitutional prohibition on incurring debt and therefore must establish contingency or sinking funds for unpredictable 911 expenditures. BRETSA asserts that if using the proceeds of such a fee to support 911 will mean that those proceeds cannot thereafter be used for more general purposes, the public safety answering point (PSAP) may be denied funding when needed.

We disagree that our authority under the NET 911 Act extends only to ''specifically designated'' 911 fees or charges. The legislative history of the NET 911 Act indicates Congress's broad intention to discourage or eliminate the diversion of 911 fees by states and political subdivisions. In its report on H.R. 3403 (the bill that was enacted as the NET 911 Act), the House Committee on Energy and Commerce noted Congress's intent that ''[s]tates and their political subdivisions should use 911 or E911 fees only for direct improvements to the 911 system'' and that the Act ''is not intended to allow 911 or E–911 fees to be used for other public safety activities that, although potentially worthwhile, are not directly tied to the operation and provision of emergency services by PSAPs.'' A narrow interpretation covering only ''specifically designated'' 911 fees or charges would frustrate this congressional purpose by creating an opportunity for states to divert the 911 portion of a multi-purpose fee. Moreover, there is no language in the NET 911 Act (or in the amendments made by section 902) that limits the scope of that Act to fees designated exclusively for 911/E911. Finally, in its annual fee reports, the agency has found that multi-purpose fees that support 911/E911 and other purposes fall within the Commission's authority under the NET 911 Act.

With respect to BRETSA's argument that extending the definition of ''911 fee or charge'' as proposed would prevent the establishment of sinking or contingency funds for 911 expenditures, we disagree that this would be prohibited under our rules. As discussed below, we also adopt a safe harbor under which a multi-purpose fee would not be deemed to be diverting 911 fees, and we note that sinking or contingency funds could fall within the safe harbor, provided that they meet the relevant criteria.

2. Diversion

Background. Section 902(f) defines ''diversion,'' with respect to a 9–1–1 fee or charge, as the obligation or expenditure of such fee or charge for a purpose or function other than the purposes and functions designated in the final rules issued under paragraph (3) of section 6(f) of the Wireless Communications and Public Safety Act of 1999, as added by section 902, as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable.

In the NPRM, we proposed to codify this definition with minor changes to streamline it. Specifically, we proposed to define diversion as ''[t]he obligation or expenditure of a 911 fee or charge for a purpose or function other than the purposes and functions designated by the Commission as acceptable pursuant to [the applicable rule section in subpart I].'' In addition, we proposed to clarify that the definition of diversion includes distribution of 911 fees to a political subdivision that obligates or expends such fees for a purpose or function other than those designated by the Commission.

Decision. We adopt this definition as proposed. We find that it will encourage states and taxing jurisdictions to take proactive steps to address the conditions that enable diversion of 911 fees by political subdivisions, such as counties, that may receive 911 fees.[11]

Several commenters raise concerns with our proposal to specify that diversion includes distribution of 911 fees to a locality that diverts them. The National Emergency Number Association (NENA) states that it is concerned that the administrative burden of local surveillance and potential lack of state-level capacity for diversion enforcement could add to the already significant burden on state-level 911 officials. NENA also expresses concern that states ''may lack the logistical capability to prevent this diversion of funds, especially in a timely manner.'' The National Association of State 911 Administrators (NASNA) notes that in some states, service providers remit fees directly to political subdivisions, such as counties, for 911 use and that due to limits in their statutes or constitutions, these states have limited authority over the local use of those funds. NASNA adds that states ''would have no visibility over how these funds are spent at the local level.'' NASNA suggests that in states where there is limited authority over local 911 fee collection or use, the Commission should require that local units report directly to the Commission, and ''the state should not be held accountable for any finding of diversion

[11] The Illinois State Police support extending the definition of diversion but argue that the Commission should clarify that any local public agency that receives 911 fees from the 911 authority serving its jurisdiction is also responsible for the diversion of 911 fees. IL State Police Mar. 23, 2021 Comments at 2. Section 902 directs us to designate acceptable purposes and functions for the obligation or expenditure of 911 fees by ''any State or taxing jurisdiction.'' 47 U.S.C. 615a–1(f)(3)(A) (as amended); sec. 902(c)(1)(C). Consistent with this, we clarify that taxing jurisdictions would be responsible for fee diversion occurring at the level of the taxing jurisdiction.

occurring at the local level of which it does not have authority.'' Further, NASNA requests that the Commission ''notify the state in a timely manner of any diversion to ensure the state can restrict or require repayment of any grant funds or other restrictions that the local diverter would be subject to under the FCC's rules on 911 fee diversion.''

We find that it is consistent with the intent of section 902 to hold states responsible for fee diversion by localities within their boundaries. Absent such a policy, states or taxing jurisdictions could have an incentive to avoid oversight or accountability for expenditures by political subdivisions. We also decline to require that local units report directly to the Commission, as NASNA requests. The NET 911 Act requires the Commission to report on the ''status in each State'' of the collection and distribution of 911 fees or charges, and the agency's annual 911 fee report questionnaire is consistent with this directive. We note that states may disclose limitations on their authority over local 911 fee collection or use in their responses to the fee report questionnaire and that these questionnaires are publicly available on the Commission's website. We also note that the petition for determination process established by section 902 provides a mechanism for further consideration of this issue in the context of specific fact patterns. In response to concerns that defining diversion in this way could result in the denial of grant funding for states or local jurisdictions on the basis of the actions of localities over which they have no control, we note that decisions with respect to grant eligibility will be made by the agencies managing the grant program, not the Commission. If states and localities seek flexibility under these circumstances with respect to eligibility for grant funding, they must request it from the agencies managing the grant program.[12] We provide additional guidance below on how fee diversion at the local level would affect eligibility for Commission advisory panels.

3. State or Taxing Jurisdiction

Background. Section 902 defines a state or taxing jurisdiction as ''a State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).'' We proposed in the NPRM to codify this definition in our rules. We also proposed to add the definition of ''State'' from 47 U.S.C. 615b to the subpart I rules. Under section 615b, the term ''State'' means ''any of the several States, the District of Columbia, or any territory or possession of the United States.'' Accordingly, provisions in subpart I that apply to any ''State or taxing jurisdiction'' would apply to the District of Columbia and any United States territory or possession as well.

Decision. We adopt these definitions as proposed. We find that these definitions will be helpful to users of the subpart I regulations, and no commenter opposes them. With respect to the scope of subpart I, we proposed in the NPRM that the rules would apply to states or taxing jurisdictions that collect 911 fees or charges (as defined in that subpart) from commercial mobile services, IP-enabled voice services, and other emergency communications services. We believe this provision will help to clarify application of the subpart I rules, and no commenter opposes this proposal. Accordingly, we adopt this rule as proposed.

B. Designation of Obligations or Expenditures Acceptable for Purposes of Section 902

Section 902 requires the Commission to issue rules ''designating purposes and functions for which the obligation or expenditure of 9–1–1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable'' for purposes of the statute. In addition, section 902 provides that the purposes and functions designated as acceptable for such purposes ''shall be limited to the support and implementation of 9 1 1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction.'' Section 902 also provides that the Commission shall consider the purposes and functions that states and taxing jurisdictions specify as their intended purposes and ''determine whether such purposes and functions directly support providing 9–1–1 services.''[13] Moreover, section 902 provides states and taxing authorities with the right to file a petition with the Commission for a determination that an obligation or expenditure of a 911 fee or charge that is imposed for a purpose or function other than those designated as acceptable for purposes of the statute in the Commission rules should nevertheless be treated as having an acceptable purpose or function for such purposes.

1. Standard for Determining Acceptable Purposes and Functions for 911 Fees

Background. In the NPRM, we proposed to codify the statutory standard for acceptable purposes and functions for the obligation or expenditure of 911 fees or charges by providing that acceptable purposes and functions for purposes of the statute are limited to (1) support and implementation of 911 services provided by or in the state or taxing jurisdiction imposing the fee or charge, and (2) operational expenses of PSAPs within such state or taxing jurisdiction. We also noted that this language tracks the language in section 902.

Decision. We adopt the general standard for designating acceptable purposes and functions for expenditures of 911 fees as proposed in the NPRM, with minor modifications to clarify that these designations of acceptable obligations or expenditures are for purposes of section 902.[14] Commenters are generally supportive of this proposal, and the proposed language tracks the language of section 902.

Several commenters urge the Commission to clarify the term ''911 services'' or ''911 systems'' in the

[12] Consistent with this, the agencies administering the grant program would decide eligibility in the situation posed by the Illinois State Police of a locality that has diverted. *See* IL State Police Mar. 23, 2021 Comments at 2.

[13] 47 U.S.C. 615a–1(f)(3)(B) (as amended); sec. 902(c)(1)(C). Section 902 also provides that the Commission ''shall consult with public safety organizations and States and taxing jurisdictions as part of any proceeding under this paragraph.'' 47 U.S.C. 615a–1(f)(3)(C) (as amended); sec. 902(c)(1)(C). The legislative history of section 902 states that ''[a]s part of any proceeding to designate purposes and functions for which the obligation or expenditure of 9–1–1 fees or charges is acceptable, the FCC is required to consider the input of public safety organizations and States and taxing jurisdictions.'' House of Representatives Committee on Energy and Commerce, Report on Don't Break Up the T-Band Act of 2020, H.R. Rep. No. 116–521, at 8 (2020) (emphasis added). We received one comment on this specific issue. *See* New York State Division of Homeland Security and Emergency Services (NYS DHSES) Comments, PS Docket Nos. 20–291 and 09–14, at 9 (rec. Mar. 23, 2021) (arguing that ''the consultation must be in addition to the comments made in response to the Proposed Rule''). We note that to satisfy the consultation requirements of section 902, the Public Safety and Homeland Security Bureau staff conducted outreach to a diverse representative sample of public safety organizations, states, and taxing jurisdictions that expressed an interest in fee diversion issues generally prior to the release of this Report and Order; we solicited public comments on the proposed rules implementing section 902; and we released a public draft prior to adoption of the NPRM so that further input on it could help to inform the Commission's decision.

[14] In particular, we revise the title of § 9.23 to read, ''Designation of acceptable obligations or expenditures for purposes of the Consolidated Appropriations Act, 2021, Division FF, Title IX, section 902(c)(1)(C).'' We also add a reference to ''for purposes of section 902'' in the introductory language of § 9.23(a) and (c). *See* Appendix A of the Commission's Report and Order (final rules).

proposed rule. The City of Aurora asserts that as proposed, the term would be narrowly limited to receipt of the call at the PSAP and processing the call through computer aided dispatch (CAD) 911, and that 911 services should include ''all technology, staff, training, and administration necessary to effectively provide emergency response to the caller.'' The Colorado Public Utilities Commission (CoPUC) comments that what constitutes 911 services ''may mean different things to different people, particularly as technological advances in emergency communications technology blur the lines between what may be considered '911 service' and what may be just part of the emergency communications ecosystem.''

State and local 911 authorities also urge the Commission to adopt broad rules that would provide flexibility at the state and local level and to defer to states and local authorities in determining what constitutes fee diversion. NASNA argues that ''[t]hese rules must be implemented in a manner that does not create conflict with existing state statutes and guidelines.'' NASNA adds that it believes the proposed rules ''do not consider each state's current legislative and regulatory processes that (1) involve their citizen knowledge and involvement, (2) have longstanding systems in place, and (3) have evolved through consensus-based processes that involve both the public safety community and the communication industry.'' The Oklahoma 911 Management Authority (Oklahoma 911) similarly urges the Commission to make the rules ''broad and allow for flexibility within the State and region to narrow the requirements to fit local need.'' Adams County, CO, et al. encouraged the FCC to include a safe harbor for 911 entities that utilize funds from 911 fees in compliance with state laws substantially equivalent to the Colorado statute. BRETSA and the National Public Safety Telecommunications Council (NPSTC) also raise concerns that state fees and taxes are ''matters of state interest,'' or that the Commission should consider whether Federal rules defining how state funds can be used encompass any states' rights issues. Some commenters note that funding priorities and needs may evolve over time, and contend that it is not apparent that the proposed rules provide sufficient flexibility for the future. CTIA—the Wireless Association (CTIA), on the other hand, responds that the Commission may not defer to state laws regarding the permissible uses of 911 fees, as some commenters suggest, because section 902 charges the Commission with the responsibility to determine the appropriate purposes and functions for which 911 fees may be used. CTIA asserts that ''[i]t is well settled that federal agencies may not subdelegate such authority to outside entities (including state sovereign entities) absent express authority to do so, and nothing in the statute permits the Commission to subdelegate this responsibility.''

We agree that our rules should be reasonably broad given the diverse and evolving nature of the 911 ecosystem. Consistent with this approach, our rules identify broad categories of acceptable purposes and functions for 911 fees and provide examples within each category to guide states and localities.[15] As the rules make clear, the examples of acceptable expenditures for purposes of section 902 are non-exclusive and are meant to be illustrative; they are not intended to anticipate every possible use of 911 fees at the state and local level. State and local jurisdictions thus have discretion to make reasonable, good faith determinations whether specific expenditures of 911 fees are acceptable under our rules. In light of this, we do not believe additional clarification of the terms ''911 services'' or 911 systems'' is necessary. We also note that the petition for determination process afforded by section 902 provides a mechanism for states and taxing jurisdictions that seek additional guidance on whether a particular expenditure would be an acceptable use of 911 fees.

We do not agree, however, with commenters who contend that the Commission should defer to state and local law on what constitutes fee diversion for purposes of section 902. As CTIA points out, section 902 charges the Commission with responsibility for determining appropriate purposes and functions for expenditure of 911 funds. A policy of deferring to states or localities on what constitutes fee diversion would negate one of the principal aspects for these purposes of section 902, which is that it revises the language in 47 U.S.C. 615a–1 to make clear that fee diversion is not whatever state or local law says it is. Accordingly, we decline to create a safe harbor for 911 entities that use 911 fees in compliance with their state statute, as this would essentially make the categories of acceptable purposes and functions we establish herein meaningless. We also disagree that our rules encroach in any way on states' rights. Following the congressional directive given to the Commission in section 902, and in furtherance of a nationwide 911 and E911 service, the rules identify and define categories of expenditures that are, or are not, acceptable for 911 fees for the specific purposes of section 902 and, consistent with the statute, provide consequences for states or taxing jurisdictions found to be diverting (such as ineligibility to serve on certain advisory panels). The rules do not, however, prohibit or require collection or expenditure of 911 fees by any state or taxing jurisdiction.

Finally, we clarify the phrase ''support and implementation of 911 services provided by or in the state or taxing jurisdiction imposing the fee or charge,'' under new § 9.23(a). Some commenters contend that, as proposed in the NPRM, § 9.23(a) would prohibit states or other taxing jurisdictions from spending 911 fees outside of the originating jurisdiction (*i.e.,* cross-subsidization) and urge the Commission to permit such expenditures. We believe that Congress did not intend to address all 911 fund cross-subsidization with this language, and this is not the meaning of § 9.23(a). Indeed, many cross-subsidization situations across local or state lines may be necessary for the benefit of a state or taxing jurisdiction's own 911 system. For example, Oklahoma 911 argues that it should be deemed acceptable for purposes of section 902 for the landline fees collected at a very granular level locally to be used to ''pay for valid 9–1–1 expenses outside of the originating taxing jurisdiction when municipalities and counties regionalize or consolidate.'' BRETSA argues, *e.g.,* that there are large or sparsely populated areas that have insufficient PSAP coverage and need subsidies from other taxing jurisdictions within the state. Providing such subsidies from

[15] NYS DHSES contends that the statutory standard for granting a petition for determination under section 902(c)(1)(C) is broader than the standard for defining ''acceptable'' 911 expenditures in the rules, and asserts that the Commission's proposed rules for designating the ''acceptable'' purposes and functions should be consistent with, and not narrower than, the petition standards. NYS DHSES Mar. 23, 2021 Comments at 5–6. *See similarly* City of Aurora, CO Mar. 22, 2021 Comments at 2–3 (arguing language of petition standard supports broader definition of ''acceptable'' 911 use). However, we interpret these two provisions of section 902 as balancing each other, and we reject any argument that Congress intended inconsistent standards for the two provisions. In section 902(c)(1)(C), Congress set forth the standard for the Commission to use in adopting rules by the statutory June 25, 2021 deadline, and then separately set forth the complementary standard for the Commission to use in deciding petitions for determination going forward, to address yet to be identified acceptable 911 purposes or functions in the face of a diverse and evolving 911 ecosystem.

another taxing locality might benefit the taxing locality not only by, *e.g.,* providing mutual redundancy and backup, but also by reducing the load on the taxing locality's 911 system because it no longer has to step in regularly to provide 911 service and support for the underserved area, potentially also at much greater expense and difficulty due to the lack of interconnectivity. In sum, we do not believe that Congress in section 902(c)(1)(C) intended to prohibit cross-subsidization from one taxing state or jurisdiction to another to the detriment of a robust, efficient, and reliable 911 system that serves the public.[16]

2. Designation of Acceptable Purposes and Functions for 911 Expenditures

Background. We proposed in the NPRM that examples of acceptable purposes and functions include, but not be limited to, the following, provided that the state or taxing jurisdiction can adequately document that it has obligated or spent the fees or charges in question for these purposes and functions:

(1) PSAP operating costs, including lease, purchase, maintenance, and upgrade of customer premises equipment (CPE) (hardware and software), computer aided dispatch (CAD) equipment (hardware and software), and the PSAP building/facility;

(2) PSAP personnel costs, including telecommunicators' salaries and training;

(3) PSAP administration, including costs for administration of 911 services and travel expenses associated with the provision of 911 services;

(4) Integrating public safety/first responder dispatch and 911 systems, including lease, purchase, maintenance, and upgrade of CAD hardware and software to support integrated 911 and public safety dispatch operations; and

(5) Providing for the interoperability of 911 systems with one another and with public safety/first responder radio systems.

We noted in the NPRM that we believe these purposes and functions are consistent with the general standard for designating acceptable uses of 911 fees and charges set out in section 902. In addition, we noted that these purposes and functions are consistent with the agency's past analysis of 911 fee diversion in its annual fee reports, as well as the legislative history of the NET 911 Act. We sought comment in the NPRM on our proposed designation of acceptable and unacceptable purposes and functions under the statute, including whether our proposals were underinclusive or overinclusive. In addition, we sought comment on the purposes and functions that states and taxing jurisdictions have specified as the intended functions for 911 fees and charges and how we should take these specifications into account as we designate acceptable purposes and functions under section 902.

Decision. We revise one of the categories of acceptable purposes and functions in response to commenters' requests for additional examples of expenditures that fall within the category. We adopt the other categories as proposed in the NPRM.

Commenters generally support the proposed framework of general categories of acceptable and unacceptable expenditures for purposes of section 902, with examples within each category. CTIA states that it supports the proposed standard for determining acceptable purposes and functions and notes that section 902 directs the Commission, in considering expenditures, to ''determine whether such purposes and functions directly support providing 9–1–1 services.'' Intrado states that ''the basic framework proposed by the Commission of providing a list of acceptable and unacceptable expenditures and obligations for 911 fees is sound. Addressing fee diversion through a non-exhaustive list of acceptable and unacceptable purposes and functions will invariably produce objections from affected parties. What matters most, however, is the Commission sets a clear demarcation line for compliance that public safety organizations can internalize, which the Commission can accomplish using the proposed rule's framework with an acceptable/unacceptable list of expenditures and obligations.''

Other commenters request additions or changes to the categories of acceptable expenditures. CoPUC contends that more clarity is needed regarding what constitutes ''operational expenses of PSAPs'' in proposed § 9.23(b)(1) because a wide range of different service models exist. Commenters also ask the Commission to clarify the term ''interoperability'' in proposed § 9.23(b)(5). In addition, commenters request a variety of additions to the list of examples within each category, including expenditures for pre-arrival instructions and associated training; maintenance and replacement costs; 911 cybersecurity; budgeting and forecasting; hiring, retention, and training of staff; industry-specific training through organizations such as NENA and the Association of Public-Safety Communications Officials-International, Inc. (APCO); mental health services for 911 professionals; administrative expenses for overseeing 911 programs; compliance costs; 911 call processing systems; CAD systems, mobile data computers (MDCs); geographic information systems (GIS) call routing, wide area networks (WANs), Emergency Services IP Networks (ESInets), and other NG911 technologies; emergency notification systems (ENS); and platforms such as Smart911 and RapidSOS. BRETSA provides an extensive list of requested additions, as does the Illinois State Police.

We agree with commenters that it would be helpful to add some of these examples to the language of the rule. Specifically, we revise § 9.23(b)(1) to refer to PSAP operating costs, including lease, purchase, maintenance, replacement, and upgrade of customer premises equipment (CPE) (hardware and software), computer aided dispatch (CAD) equipment (hardware and software), and the PSAP building/facility and including NG911, cybersecurity, pre-arrival instructions, and emergency notification systems (ENS). PSAP operating costs also include technological innovation that supports 911.

This revision to the proposed rule makes clear that replacement of 911 systems is an acceptable expenditure for purposes of Section 902 and that 911 includes pre-arrival instructions and ENS. We also add a reference to cybersecurity. As NPSTC and BRETSA note, CSRIC VII recently recommended that spending on cybersecurity improvements be ''explicitly authorized as an eligible use of 9–1–1 funds.'' We also add a reference to NG911, and we revise the language to make clear that acceptable expenditures for these purposes include funding not just for existing systems, but also for innovation that will support 911 in the future.[17] We

[16] We note that the petition for determination process provides a mechanism for states and taxing jurisdictions to seek additional guidance in applying § 9.23(a) to a particular proposal for use of 911 fees for cross-subsidization to meet local needs.

[17] The North Carolina 911 Board (NC 911 Board) suggests clarifying the proposed rules to ''specifically identify'' NG911 services in a manner consistent with 47 U.S.C. 942(e)(1), which defines next generation 911 services as an IP-based system comprised of hardware, software, data, and operational policies and procedures that—(A) provides standardized interfaces from emergency call and message services to support emergency communications; (B) processes all types of emergency calls, including voice, data, and multimedia information; (C) acquires and integrates additional emergency call data useful to call routing and handling; (D) delivers the emergency calls,

find that these additions to the rule will help to clarify the scope of acceptable expenditures for PSAP operating costs in the implementation of section 902.

With respect to additional suggestions from commenters for identifying specified uses of 911 funds as acceptable for purposes of Section 902, we do not believe it is necessary to add every specific example to the text of the rules or to attempt further clarification of terms such as ''operating expenses'' or ''interoperability.'' As we note above, we intend to keep these rules general so that states and taxing jurisdictions have reasonable flexibility to use their good faith judgment in applying the rules to particular circumstances. In addition (and as the rules explicitly state), the categories and examples are non-exclusive and are not intended to specify every possible use of 911 fees that would be acceptable. We also note that the petition for determination process provides a mechanism for states and taxing jurisdictions that seek additional guidance in applying the rules to a particular proposal for use of 911 fees.

3. Designation of Unacceptable Purposes and Functions for 911 Expenditures

Background. We sought comment in the NPRM on specifying examples of purposes and functions that are not acceptable for the obligation or expenditure of 911 fees or charges for purposes of the statute. We proposed in § 9.23(c) of the rules that such examples would include, but not be limited to, the following:

- Transfer of 911 fees into a state or other jurisdiction's general fund or other fund for non-911 purposes;
- Equipment or infrastructure for constructing or expanding non-public safety communications networks (*e.g.,* commercial cellular networks); and
- Equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities, including public safety radio equipment and infrastructure, that does not have a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders.

We noted that identifying these examples as unacceptable expenditures for purposes of the statute is consistent with the manner in which such expenditures have been analyzed in the agency's annual 911 fee reports and sought comment on whether these examples should be codified.[18]

Decision. We adopt these provisions as proposed in the NPRM, with two minor modifications to § 9.23(c)(3), as detailed below. In light of the divided record on using 911 fees for public safety radio systems, we provide additional guidance on when such use of 911 fees will be deemed to have purposes or functions that ''directly support providing 9–1–1 services'' and so qualifies as ''acceptable'' for purposes of avoiding section 902 consequences. We also seek recommendations from the 911 Strike Force on developing additional specific examples in these regards.

We adopt our proposal to classify as unacceptable for Section 902 purposes the transfer of 911 fees into a general fund or other fund for non-911 purposes. The agency's annual fee reports consistently have found that transferring 911 fees to a state's general fund constitutes fee diversion. In addition, no commenter opposes this provision.

We also adopt our proposal that expenditures of 911 fees for constructing or expanding non-public safety communications networks, such as commercial cellular networks, are not acceptable for Section 902 purposes. This finding is consistent with our approach in the agency's annual 911 fee reports, where the agency has concluded, for example, that construction of commercial cellular towers to expand cellular coverage is not 911 related within the meaning of the NET 911 Act. In the Twelfth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, the agency explained that, although expanding cellular coverage ''enhances the public's ability to call 911,'' the NET 911 Act focuses on funding the elements of the 911 call-handling system that are operated and paid for by state and local 911 authorities.

Some commenters recommend a more ''nuanced'' approach that would allow 911 spending on non-public safety communications networks in certain circumstances. For example, BRETSA agrees that ''wireless providers should not require 9–1–1 Authorities to subsidize expansion of their coverage with 9–1–1 Fees,''[19] but expresses concern that § 9.23(c)(2) could prevent Colorado from providing ''diverse paths'' to ''currently unprotected Central Offices [ ] serving PSAPs'' due to ''incidental benefits to wireless providers.'' Oklahoma 911 contends that expenditures to provide for PSAP backup during outages should be looked at on a ''case by case basis'' at the state and local level, to ensure 911 calls are delivered ''quickly and appropriately.'' We agree that expenditures to provide redundancy, backup, or resiliency in components of the 911 network (*e.g.,* components that provide path diversity to PSAPs or support rerouting of 911 traffic in the event of an outage) would not be deemed unacceptable under this rule. We also note that the petition for determination process provides a mechanism for states and taxing jurisdictions to seek additional guidance in applying § 9.23(c)(2) to a particular proposal for use of 911 fees to meet local needs.

We also adopt with minor modifications our proposal to classify as unacceptable, for purposes of section

messages, and data to the appropriate public safety answering point and other appropriate emergency entities; (E) supports data or video communications needs for coordinated incident response and management; and (F) provides broadband service to public safety answering points or other first responder entities. NC 911 Board Mar. 31, 2021 Reply at 2; 47 U.S.C. 942(e)(5). States and taxing jurisdictions should use this definition if they find it is helpful, but we decline to add it to our rules. We believe NG911 technology is still evolving and that we lack an adequate record to define it at this time.

[18] *See* NPRM at 10, paras. 24–25. For example, the annual fee reports have repeatedly found that transferring 911 fees to the state's general fund or using 911 fees for the expansion of commercial cellular networks constitutes fee diversion. *See* NPRM at 11, para. 25. The fee reports also have found that expenditures to support public safety radio systems, including maintenance, upgrades, and new system acquisitions, are not 911 related. *See* NPRM at 11, para. 25. In addition, the agency has found that radio networks used by first responders are ''technically and operationally distinct from the 911 call-handling system.'' *See* NPRM at 11, para. 25. Given our request for comment in the NPRM on such examples in the annual fee reports, we reject contentions such as those raised by Michigan 911 Entities, who argue that the statements in the agency's fee reports on public safety radios were never part of a notice and comment rulemaking and therefore cannot be used as a rationale for adopting rules in this proceeding. Michigan 911 Entities Mar. 23, 2021 Comments at 11–12 & n.6.

[19] BRETSA Mar. 23, 2021 Comments at 27. BRETSA also urges the Commission to focus on the wireless providers, rather than the 911 Authority, when the Commission finds diversion of 911 fees to subsidize commercial wireless towers. BRETSA notes, for example, that the Bureau has labeled West Virginia a fee diverter for ''subsidizing construction of wireless towers to extend 9–1–1 calling capabilities to areas wireless providers have found or represented are not financially viable or only marginally financially viable to serve,'' that wireless providers require 911 Authorities to ''subsidize with 9–1–1 Fees their own commercial wireless services within their licensed service areas,'' and that 911 service is ''an exception to the rule that providers bear the cost of delivering their customers [sic] calls.'' Boulder Regional Emergency Telephone Service Authority Reply, PS Docket Nos. 20–291 and 09–14, at 16–17 (rec. Apr. 2, 2021) (BRETSA Apr. 2, 2021 Reply); *see also* BRETSA Mar. 23, 2021 Comments at 27–28 (''focus should be on the Commission's coverage rules and the actions of the wireless providers rather than on the 9–1–1 Authorities who must pay these subsidies for the providers to expand coverage''). We refer to the 911 Strike Force for further consideration the issue of whether, and how much, the Commission should focus on wireless providers, rather than 911 authorities, when finding fee diversion for subsidization of commercial wireless towers.

902, expenditures of 911 fees on equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities that do not directly support 911 services. We revise the language of this section slightly to provide that examples of purposes and functions that are not acceptable for the obligation or expenditure of 911 fees or charges for purposes of section 902 include, but are not limited to, ''Equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities that does not directly support providing 911 services.'' The reference to whether such equipment or infrastructure ''directly support[s] providing 911 services'' more closely tracks the language in section 902.

Further, with respect to the application of this rule to public safety radio expenditures, we leave the precise dividing line between acceptable and unacceptable radio expenditures open for further refinement, and we refer this issue to the 911 Strike Force for further consideration and the development of recommendations.

Commenters were divided on whether using 911 funds to pay for public safety radio systems constitutes fee diversion. The Tarrant County (TX) 9–1–1 District strongly disagrees with commenters who assert that allowable uses of 911 fees should include items such as radio infrastructure, mobile radios, portable radios, pagers or other systems: ''THIS is exactly the problem. Agencies want to fund the entire public safety response system by recategorizing equipment, vehicles, and unrelated systems as part of the 9–1–1 response. It is emphatically NOT all part of the 9–1–1 system. The purpose of the fee is strictly to support Basic 9–1–1 and Enhanced 9–1–1 (E911) services only.'' CTIA and NTCA—The Rural Broadband Association (NTCA) argue that allowing radio system expenses would depart from fee report precedent, where the agency has ruled that use of funds to support public safety radio systems and associated maintenance and upgrades are not 911-related and constitute fee diversion. The North Carolina 911 Board (NC 911 Board) supports the NPRM proposal and notes that it only funds radio expenses within the PSAP based on the definition of ''call taking'' in the North Carolina statute.

However, some state and local 911 entities urge the Commission to find that expenditures of 911 funds on public safety radio systems are broadly acceptable and do not constitute fee diversion. These commenters contend that radio networks are not operationally and technically distinct from the 911 system and should be treated as integral components of the 911 ecosystem. For example, NYS DHSES asserts that ''[p]ublic safety communication systems are most effective when they address all users. This requires connecting the general public to 911 Centers and their telecommunicators who, in turn, communicate with first responders in the field.'' The Michigan 911 Entities assert that ''[u]nless the Commission is suggesting that police and fire go back to the wired Call Box on the street corner, there is no doubt that a PSAP is virtually useless without its interconnection to the radio system. Similarly, that radio system is useless without subscriber units for the system with which to communicate.''

Several commenters also assert that our proposal to consider expenditures for public safety radio expenses unacceptable for section 902 purposes in certain circumstances is inconsistent with our proposal that expenditures providing for ''the interoperability of 911 systems with one another and with public safety/first responder radio systems'' would be acceptable. The Pennsylvania Emergency Management Agency (PEMA) asserts that ''[t]he proposed rules imply there is a boundary between acceptable and not acceptable radio system expenses, but it is not clear where the boundary lies.'' CoPUC states that the line between acceptable and unacceptable radio equipment ''is not clear at all'' and that ''[p]resumably, radio equipment inside the PSAP is allowed, but everything from the PSAP to the portable radio on a patrol officer's utility belt is part of the infrastructure required to dispatch emergency responders.''

The issue whether radio system expenditures are acceptable or unacceptable for purposes of section 902 turns on how the Commission interprets the statutory provision that 911 fee expenditures directly support the provision of 911 services. We believe it is important to strike a balance between the opposing views in the record while recognizing the evolving nature of the 911 landscape and the variety of specific issues that could arise. Therefore, we reject as overbroad the proposition that all public safety radio expenditures ''directly support the provision of 911 services'' and are therefore acceptable. This is inconsistent with the standard applied in prior 911 fee reports and risks becoming an exception that swallows the rule. However, the test of whether specific radio expenditures directly support the provision of 911 services should be sufficiently flexible to allow for innovation and evolution in the 911 environment. For example, acceptable radio expenditures are not necessarily limited to technology ''inside the PSAP'' and could extend to development of integrated communications systems that support 911-related functions such as caller location or that enhance 911 reliability and resiliency. As NENA points out, the Commission's determinations with respect to edge cases ''evolve and are clarified over time as [the agency] is confronted with new quasi–9–1–1 public safety expenditures.'' We therefore decline to define a ''bright line'' test for applying the rule to specific radio expenditures.

We also find that commenters on both sides of this issue raise arguments that warrant additional consideration in determining where the line should be drawn between acceptable and unacceptable expenditures for public safety radio equipment. Accordingly, we do not specify public safety radio expenditures in our codified list of unacceptable uses, but we adopt our proposal defining expenditures on infrastructure or equipment as unacceptable if they do not directly support providing 911 services. In addition, we refer this issue to the 911 Strike Force for further guidance on how to apply this standard—to be delivered to the Commission contemporaneously with its final report to Congress—including the extent to which radio expenditures should be considered acceptable for purposes of section 902 because they provide for the interoperability of 911 systems with one another and with public safety/first responder radio systems. Finally, we note that the petition for determination process established by the statute provides a mechanism for further consideration of this issue in the context of specific cases after adoption of these rules.

4. Safe Harbor for Multi-Purpose Fee or Charge

Background. In the NPRM, we proposed to adopt an elective safe harbor in our rules providing that if a state or taxing jurisdiction collects fees or charges designated for ''public safety,'' ''emergency services,'' or similar purposes and a portion of those fees goes to the support or implementation of 911 services, the obligation or expenditure of such fees or charges shall not constitute diversion provided that the state or taxing jurisdiction: (1) Specifies the amount or percentage of such fees or charges that is dedicated to 911 services; (2) ensures that the 911 portion of such fees or charges is segregated and not

commingled with any other funds; and (3) obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined in § 9.23 under new subpart I. We reasoned that the rules should provide states and taxing jurisdictions the flexibility to apportion the collected funds between 911 related and non-911 related programs, but include safeguards to ensure that such apportionment is not subject to manipulation that would constitute fee diversion.

Decision. We adopt the safe harbor provision as proposed. As we note above, Congress tasked us with designating the acceptability of the obligation and expenditure of 911 fees or charges for purposes of determining whether section 902 consequences will apply. Consistent with that mandate, and to incentivize states and taxing jurisdictions to be transparent about multi-purpose fees, adopting a safe harbor provision offers flexibility to states and taxing jurisdictions to have the 911 portion of such multi-purpose fees be deemed acceptable while not having the non-911 portion be deemed diversion. Some commenters support adoption of the proposed safe harbor, while other commenters object to the creation of the safe harbor provision as regulating non-911 fees outside of the Commission's authority or as burdensome. In establishing the safe harbor, we believe that we are neither regulating non-911 fees nor overstepping the responsibility Congress required of the Commission. Because new paragraphs (3)(A) and (B) of section 615a–1(f) require the Commission to define ''acceptable'' expenditures of 911 fees or charges for purposes of section 902, and because some states and taxing jurisdictions collect 911 fees or charges as part of multi-purpose fees, we conclude that the Commission has the obligation to consider the portions of such fees that are dedicated to 911 services. The safe harbor is a voluntary provision that provides a set of criteria for states and taxing jurisdictions with multi-purpose fees to demonstrate that they are not diverting 911 fees or charges. Accordingly, § 9.23(d)(2), which provides that the 911 portion of such fees or charges is segregated and not commingled with any other funds, only applies to states and taxing jurisdictions that opt to use the safe harbor provision to demonstrate that they are not diverting 911 fees. Arguments that fee segregation exceeds the Commission's authority or is burdensome are obviated by the elective nature of the safe harbor.

We find that the safe harbor will promote visibility into how funds ostensibly collected for both 911 and other purposes are apportioned, which furthers Congress's transparency goals and enhances our ability to determine whether 911 funds are being diverted. Without such visibility, multi-purpose fees could be used to obscure fee diverting practices from Commission inquiry, and potentially could render our rules and annual 911 fee report ineffective.

We also clarify that the safe harbor provision is not intended to preclude the use of fees collected for non-911 purposes from later being used for 911 purposes. BRETSA ''supports the Commission's proposal in Section 9.23(d),'' but challenges a purported provision that ''if a fee which is specified to be for a purpose other than 9–1–1 is used to support 9–1–1, it will thereafter be considered a 9–1–1 Fee.'' BRETSA misconstrues the safe harbor provision. Nothing in the rules we adopt in this document would prevent a state or taxing jurisdiction from using fees originally collected for other public safety purposes to instead support 911 services if needed, and then later using those same non-911 public safety fees to support other public safety purposes again.

BRETSA also contends that the safe harbor prohibition on comingling of 911 funds with other funds is ''unnecessarily restrictive.'' We disagree. Segregation of 911 funds in a separate account will help to ensure that the funds are fully traceable, provide a straightforward framework to avoid 911 fee diversion issues, and promote transparency in the use of 911 fees when a state or taxing jurisdiction collects a fee for both 911 and non-911 purposes. We also clarify that states and taxing jurisdictions are not required to use the safe harbor provision of our rules. Thus, a state or taxing jurisdiction may create an alternative multi-purpose fee mechanism that does not meet the safe harbor requirements. If it does so, however, the burden will be on the state or taxing jurisdiction to demonstrate that it is not diverting 911 funds.

Finally, BRETSA suggests that ''[i]n section 9.23(d)(1), it should suffice if the 9–1–1 funding statute or regulations specify the: (i) Amount or percentage of such fees or charges which are dedicated to purposes other than 9–1–1 Services, (ii) minimum amount or percentage dedicated to 9–1–1 services, or (iii) prioritize use of the fees or charges for 9–1–1 Service (*e.g.,* permit use of the fees for non-911 purposes after the costs of 9–1–1 Service have been met[)].'' BRETSA's suggestions (i) and (ii) appear consistent with § 9.23(d)(1), as long as the state or taxing jurisdiction adheres to § 9.23(d)(2) requiring that the fees be kept segregated. We do not intend the safe harbor to restrict flexibility of states and taxing jurisdictions to adjust the percentages of a multi-purpose fee that are allocated to 911 and non-911 purposes.

5. Diverter Designations

Some commenters raise concerns regarding the sufficiency of the process by which jurisdictions are determined to be engaged in diversion by the Commission, or request additional procedural safeguards before being designated a diverter in the annual fee report. In addition, some commenters urge creation of an appeal process for states identified as diverters, and one commenter requests a process by which a diversion finding can be removed once a state has come into compliance.

We decline to adopt such procedures that are not provided for in either section 902 or the NET 911 Act. As discussed above, Congress directed the Commission to adopt final rules defining the acceptable uses of 911 fees and to rule on petitions for determination for additional uses, in order to discourage fee diversion.[20] Section 902 also does not alter the well-established data collection and reporting process that the agency has employed to compile its annual reports. To the contrary, Congress implicitly affirmed the agency's existing reporting processes by requiring that Federal grant recipients participate in the annual data collection.

For similar reasons, we decline to establish a ''glide path'' or ''phase-in'' period for states and taxing jurisdictions to come into compliance with our rules, as proposed by some commenters. Section 902 does not provide any mechanism for the Commission to delay the implementation of these rules under the statute. We recognize that commenters are concerned about the potential 911 grant eligibility consequences of being designated a fee diverter based on the rules adopted in this order. The Michigan Chapter of APCO, for example, asserts that a

[20] 47 U.S.C. 615a–1(f)(3)(A), (f)(5) (as amended); sec. 902(c)(1)(C). Furthermore, Congress defined diversion under section 902(f)(4) in reference to the final rules that the Commission issues here, stating that diversion is ''the obligation or expenditure of such fee or charge for a purpose or function other than the purposes and functions designated in the final rules.'' 47 U.S.C. 615a–1 Statutory Notes (as amended); sec. 902(f)(4). When the agency reports to Congress as required by 47 U.S.C. 615a–1(f)(2) on the status of diversion in states and taxing jurisdictions, it will do so using this definition. *See* 47 U.S.C. 615a–1 Statutory Notes (as amended); sec. 902(d)(2).

determination of diversion puts significant Federal grant money at risk, which could hinder the 911 system in fulfilling its primary purpose and ultimately harm those it was originally created to protect. Several commenters note that a finding of diversion could impact eligibility for future grants under the Leading Infrastructure for Tomorrow's America (LIFT America) Act if it is enacted into law. However, these issues are beyond the scope of this proceeding. The current 911 grant program is administered by the National Telecommunications and Information Administration (NTIA) and the National Highway Traffic Safety Administration (NHTSA), and the LIFT America Act, as currently drafted, provides for grants to be administered by these same agencies. Thus, these agencies, and not the Commission, will determine the appropriate criteria for eligibility to receive 911 grants, including whether a state or taxing jurisdiction would be eligible in the circumstances raised by commenters.[21]

Petition for Determination

Background. Section 902(c)(1)(C) provides that a state or taxing jurisdiction may petition the Commission for a determination that an obligation or expenditure of a 911 fee for a purpose or function other than those already deemed ''acceptable'' by the Commission should be treated as an acceptable expenditure. The state or taxing jurisdiction must demonstrate that the expenditure: (1) ''supports public safety answering point functions or operations,'' or (2) has a direct impact on the ability of a public safety answering point to ''receive or respond to 9–1–1 calls'' or to ''dispatch emergency responders.'' If the Commission finds that the state or taxing jurisdiction has provided sufficient documentation to make this demonstration, section 902 provides that the Commission shall grant the petition.

In the NPRM, we proposed to codify these provisions in our rules. We stated our belief that ''Congress intended this petition process to serve as a safety valve allowing states to seek further refinement of the definition of obligations and expenditures that are considered 911 related.'' We also stated that the proposed rule would set clear standards for what states must demonstrate to support a favorable ruling, including the requirement to provide sufficient documentation. In addition, to promote efficiency in reviewing such petitions, we proposed that states or taxing jurisdictions seeking a determination do so by filing a petition for declaratory ruling under § 1.2 of the Commission's rules. We noted that the declaratory ruling process would promote transparency regarding the ultimate decisions about 911 fee revenues that legislatures and executive officials make and how such decisions promote effective 911 services and deployment of NG911. We proposed to delegate authority to the Public Safety and Homeland Security Bureau to rule on these petitions for determination, following the solicitation of comments and reply comments via public notice. We sought comment on these proposals and on any possible alternative processes for entertaining such petitions.

We adopt our proposed rules and procedures for addressing petitions for determination, with some clarifications. Commenters generally support these proposals, although most commenters recommend modifications or additions to the process. We address these issues in turn.

Petitions and permitted filers. First, we adopt our proposal that states or taxing jurisdictions seeking a determination must do so by filing a petition for declaratory ruling under § 1.2 of the Commission's rules.[22] Some commenters, however, urge us to make the declaratory ruling process available to other stakeholders, such as communications providers and public safety organizations, to request Commission guidance on whether certain measures constitute 911 fee diversion. For example, CTIA asserts that expanding this process would ''create a deterrent effect that can restrain state or local taxing jurisdictions from taking new actions that may constitute 9–1–1 fee diversion.'' However, other commenters oppose expanding the petition process to other stakeholders. The Adams County E–911 Emergency Telephone Service Authority, Arapahoe County 911 Authority, and Jefferson County Emergency Communications Authority (AAJ Authorities) note that section 902 ''clearly states'' that ''only states and taxing jurisdictions'' can initiate such proceedings, for the limited purpose of determining whether an expenditure by such a state or taxing jurisdiction is consistent with the Commission's rules. BRETSA also opposes expanding the petition process to other stakeholders, noting the ''wide disparity'' between the resources of wealthy service providers and many PSAPs, most of which ''do not regularly retain counsel and participate in Commission proceedings,'' and might ''lack the resources to oppose'' the petitions. Another commenter, Consumer Action for a Strong Economy (CASE), proposes a different mechanism, suggesting that to encourage reporting by non-governmental entities, the Commission could establish ''a new docket or a portal'' in which non-governmental entities could provide evidence demonstrating that a state or taxing jurisdiction is underfunding 911 services or ''has failed to meet an acceptable purpose and function for the obligation or expenditure of 911 fees or charges.'' The AAJ Authorities ask the Commission to reject CASE's proposal, contending that creation of a new docket or portal would create ''undue burdens'' for states and local 911 authorities, which would have to spend time and resources responding to Commission inquiries. The AAJ Authorities also note that Commission ''already has an information collection process to identify fee diverters.''

We find that, under the explicit language of section 902, only a ''State or taxing jurisdiction'' may file a petition for determination, and that other stakeholders (*e.g.,* communications providers) may not file a petition for determination. In addition, we decline to create a ''new docket or portal'' for non-governmental authorities to report 911 fee diversion and underfunding issues. Non-governmental parties can provide information to the Commission on a 911 fee concern at any time and can comment on annual 911 fee reports and state responses to the FCC data

[21] NTIA and NHTSA administer the 911 Grant Program, enacted by the ENHANCE 911 Act section 158 (codified at 47 U.S.C. 942(c)), and amended by the NG911 Act section 6503 (codified at 47 U.S.C. 942(c)). In rulemakings to revise the implementing regulations for the 911 Grant program, NTIA, NHTSA, the Department of Commerce, and the Department of Transportation have clarified that they ''are not bound by the FCC's interpretation of non-diversion under the NET 911 Act.'' 911 Grant Program, 83 FR 38051, 38058 (Aug. 3, 2018) (codified at 47 CFR part 400).

[22] The Commission notes that the decision to apply § 1.2 of the Commission's rules to the filing of these section 902 petitions is limited to the use of § 1.2 as a procedural vehicle for conducting an adjudication of these petitions. Accordingly, any limitations of 47 CFR 1.2 and the Administrative Procedure Act at 5 U.S.C. 554(e) that might arise from the specification that the Commission may issue a declaratory ruling to terminate a controversy or remove uncertainty do not apply here. Rather, the standard for accepting and granting these special petitions for determination is dictated by the statutory requirements of section 902(c)(1)(C)—specifically, that the Commission must grant such a petition if it finds that the State has provided sufficient documentation to demonstrate that the ''purpose or function'' (i) supports PSAP functions or operations, or (ii) has a direct impact on the ability of a PSAP to ''(I) receive or respond to 911 calls; or (II) dispatch emergency responders.'' 47 U.S.C. 615a–1(f)(5)(B) (as amended); sec. 902(c)(1)(C).

collection. We find that these existing procedural options available to non-governmental entities are sufficient and decline to add another layer of procedures. For example, these other stakeholders may file a petition for declaratory ruling under § 1.2 of the Commission's rules or a petition for rulemaking under § 1.401 of the Commission's rules. However, such petitions would not be subject to or entitled to the specialized petition for determination process and substantive standards that we establish here.

Bureau delegation and public comment. In general, the Public Safety and Homeland Security Bureau (Bureau) has delegated authority under our existing rules that is sufficient to act on petitions for determination in the first instance. We also adopt our NPRM proposal that the Bureau seek comment on petitions. Although the North Carolina 911 Board expresses concern that the comment and reply process could lead to administrative burdens for state and local government, other commenters support the proposal. We conclude that seeking comment on petitions will promote transparency and informed decision-making in furtherance of Congress's goals.

Time Limits. We decline to place a time limit on Bureau action on petitions for determination. We agree with commenters who advocate for timely action on petitions, but also agree with CTIA that the process needs ''to allow for public comment and sufficient deliberation of whether expenditures are appropriately within the scope of the Commission's rules.'' Although some commenters advocate mandatory timelines, imposing a rigid time limit on an as yet unknown volume of petition decisions, many of which will require careful consideration of complex situations and questions, would not allow time for sufficient deliberation or public input, would unduly burden limited Commission staff resources, and would potentially lead to inconsistent results.

Review. Some commenters advocate that an appeal process should be available, whether specifically in relation to the petition decision, or as a more general matter for any finding of fee diversion. In terms of appeals of the Bureau's petition decisions, we believe creating any specialized appeal process is unnecessary, because petitioners may submit petitions for reconsideration under § 1.106 of the Commission's rules or applications for Commission review of any Bureau-level decision under § 1.115 of the Commission's rules.

Blanket Waivers. We continue to believe that Congress intended the petition process ''to serve as a safety valve allowing states to seek further refinement of the definition of obligations and expenditures that are considered 911 related.'' However, BRETSA argues that the petition process should include provisions for ''blanket waivers'' or special rules for certain common situations that affect a large number of 911 authorities. We decline to establish such specialized provisions. We find that our general guidelines on acceptable and unacceptable 911 expenditures are sufficiently broad, and that these overarching national guidelines, the illustrative lists of examples, and the petition process complement each other, with the petition process allowing localized refinements that accommodate varying circumstances as well as a reasonable mechanism to evaluate future perhaps as yet unforeseen, but legitimate, expenses. We also note that nothing in the rules prevents multiple states or taxing authorities from filing a joint petition to address a common issue.

Eligibility To Participate on Advisory Committees

Background. Pursuant to section 902(d)(4), any state or taxing jurisdiction identified by the agency in the annual 911 fee report as engaging in diversion of 911 fees or charges ''shall be ineligible to participate or send a representative to serve on any committee, panel, or council established under section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 . . . or any advisory committee established by the Commission.'' In the NPRM, we proposed to codify this restriction in § 9.26 as it applies to any advisory committee established by the Commission.

Decision. We adopt the proposal from the NPRM with a minor modification and provide additional guidance and clarification on certain aspects of the rule.[23] As proposed, we find that any state or taxing jurisdiction identified by the agency as engaging in diversion will be ineligible to participate on any advisory committee established by the Commission. The first fee diversion report required to be submitted one year after the enactment of section 902 will include a list of states and taxing jurisdictions identified as practicing fee diversion. The agency will begin identifying representatives of diverting jurisdictions on its current advisory committees, if any, following the issuance of that report, and evaluate how to remove such representatives from current advisory committees. One commenter supports the prohibition without caveats, and some commenters seek clarification on or ask the Commission to revisit the scope of the prohibition against serving on advisory committees when a state or taxing jurisdiction has been designated a diverter.[24]

We clarify that only employees of a diverting jurisdiction (*i.e.,* state or other taxing jurisdiction) who are acting as official representatives of that jurisdiction will be ineligible to participate on advisory committees established by the Commission. Further, we clarify that this prohibition will not extend to representatives of non-diverting localities that are located within diverting states. We also clarify that an individual who is employed by a diverting jurisdiction may still serve on a Commission advisory committee as a representative of a public safety organization or other outside association. Lastly, we clarify that an advisory committee ''established'' by the Commission includes any advisory committee established under the Federal Advisory Committee Act and any other panel that serves an advisory function to the Commission as reflected on the Commission's website.[25] In light

[23] We revise the language of the proposed rule to clarify the reference to section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999, as amended (47 U.S.C. 615a–1(f)(2)).

[24] NPSTC notes that section 902(d)(4) references the ineligibility of diverting states or taxing jurisdictions to serve on FirstNet committees, panels, or councils, and states that this section encompasses the FirstNet Public Safety Advisory Committee (PSAC). NPSTC Mar. 23, 2021 Comments at 7. NPSTC asserts that ''[t]he PSAC appears to be established by Congress in the legislation, not by the Commission.'' *Id.* at 7. NPSTC argues that ''the Commission, in coordination with the FirstNet governmental entity, should clarify any impact of this legislation to FirstNet and related advisory committees, councils or panels,'' as ''an individual on the PSAC that represents a public safety or governmental association/organization should not be penalized for an employer's 911 fee decisions over which he/she may have no involvement.'' *Id.* at 7; *see also* IAFC Apr. 2, 2021 Reply at 5 (quoting NPSTC). We observe that at the May 5, 2021 FirstNet board meeting, FirstNet updated the charter of the PSAC to prevent representatives of fee diverting jurisdictions from participating on the PSAC. *See* First Responder Network Authority, Board Resolution 109–Bylaws and Public Safety Advisory Committee Charter Revisions at 1–2 & Exh. B (May 5, 2021), *https://firstnet.gov/sites/default/files/Resolution%20109%20-%20Bylaws%20and%20PSAC%20Charter%20Revisions%20May%202021.pdf.*

[25] A full list of the advisory committees established by the Commission can be found at *https://www.fcc.gov/about-fcc/advisory-committees-fcc.* This prohibition would not extend to the Regional Planning Committees (RPCs), which are administrative rather than advisory in nature. *See* NPSTC Mar. 23, 2021 Comments at 6 (requesting clarification of whether RPCs would be considered committees ''established'' by the Commission).

of these clarifications, we believe the prohibition appropriately balances the interests of Congress in restricting representatives of fee diverting jurisdictions from serving on advisory committees, without limiting representatives of non-diverting jurisdictions from providing their perspectives. Our clarification tracks NPSTC's view that an individual ''may be employed by a locality or state, but serve voluntarily in public safety associations/organizations for the benefit of all public safety,'' and may wish to end diverting practices.

Mission Critical Partners proposes that the restriction on diverter participation on advisory committees be expanded to include ''congressional panel[s], the National 911 Program, or other public safety-related committees, panels, or councils.'' Because this proposal would exceed Congress's directive in section 902, we decline to adopt it.

Reporting Requirement

Background. Section 902(c)(1)(C) provides that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after the date of enactment of section 902, ''such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare [the annual report to Congress on 911 fees].'' [26] In the NPRM, we proposed to codify this provision in § 9.25 under new subpart I to require grant recipients to provide such information to the Commission.

Decision. We adopt our proposal, which was unopposed in the comment record, with clarifying modifications.[27] Mission Critical Partners notes that the collection of information regarding states' use of 911 funds ''provides comprehensive information for Congress to scrutinize and understand the needs of states and local 911 authorities.'' APCO notes that ''[u]sing the strike force and annual reports to better understand the relationship between funding for 9–1–1 and emergency response will produce helpful information for public safety agencies and serve the Commission's and Congress's goal of discouraging fee diversion.''

Underfunding 911 Services and Improving the Annual 911 Fee Report

Background. In the Notice of Inquiry in this proceeding, we sought comment on whether improvements to the agency's data collection and reporting process could further discourage fee diversion. Section 902(d)(2) provides that, beginning with the first annual fee report ''that is required to be submitted after the date that is 1 year after the date of the enactment of this Act,'' the Commission shall include in each report ''all evidence that suggests the diversion by a State or taxing jurisdiction of 9–1–1 fees or charges, including any information regarding the impact of any underfunding of 9–1–1 services in the State or taxing jurisdiction.'' Given that section 902 similarly requires us to forward any evidence of fee diversion, ''including any information regarding the impact of any underfunding of 9–1–1 services,'' to the 911 Strike Force, in the NPRM we sought comment on how we can best emphasize this aspect in our information collection reports.

Decision. As a threshold matter, we direct the Bureau to update the annual 911 fee report questionnaire to reflect the rules adopted in the Report and Order. This should help address concerns raised by commenters that our annual data collection be more effective in identifying fee diversion.

Commenters generally support the Commission's approach of using the 911 Strike Force and annual reports to better understand underfunding.[28] APCO and several other commenters urge us to take a ''broad approach'' to analyzing the extent and impacts of 911 underfunding, whether or not it is caused by 911 fee diversion. Commenters note that the presence or absence of fee diversion does not reliably correlate to adequate funding for 911 and suggest that we take additional steps to study the broader impacts of underfunding the 911 system. We direct the Bureau to modify the annual fee report questionnaire to seek additional information on the underfunding of 911 systems, including both (1) information on the impact of fee diversion on 911 underfunding, and (2) information on 911 underfunding in general. We also refer this issue to the 911 Strike Force. The 911 Strike Force is charged with examining, among other things, ''the impacts of diversion,'' and we expect that its report will address underfunding as a potential impact of diversion.

We decline two requests from the NC 911 Board to expand the Commission's approach to analyzing underfunding, first that the Commission address underfunding of 911 as a prerequisite to finding that fee diversion has occurred, and second that the Commission provide more detail regarding the intent, definition, and scope of underfunding. Neither section 902 nor the NET 911 Act contains a requirement that the Commission find underfunding prior to finding fee diversion. Regarding the request that the Commission provide more detail about the intent, definition, and scope of underfunding, we note that section 902 did not specifically direct the Commission to define underfunding at this time, but we refer the topic of defining underfunding 911 to the 911 Strike Force to study.

III. Procedural Matters

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Report and Order on small entities. The FRFA is set forth in Appendix B of the Commission's Report and Order.

Paperwork Reduction Act of 1995 Analysis. The requirements in § 9.25(b) constitute a modified information collection to OMB Control No. 3060–1122. The modified information collection will be submitted to the Office of Management and Budget

[26] 47 U.S.C. 615a–1(f)(4) (as amended); sec. 902(c)(1)(C). NHTSA and NTIA will review the regulations for the 911 Grant Program at 47 CFR part 400 in order to determine how best to implement the new obligation under the law. The Commission will work with these agencies to ensure a coordinated compliance regime.

[27] We revise the language of the rule to clarify the reference to section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999, as amended (47 U.S.C. 615a–1(f)(2)). We also clarify that each state or taxing jurisdiction subject to this requirement must file the information requested by the Commission and in the form specified by the Public Safety and Homeland Security Bureau.

[28] APCO Mar. 23, 2021 Comments at 2 (using the Strike Force and annual reports will produce helpful information and serve the goal of discouraging fee diversion ''while looking at the bigger picture of the extent of underfunding regardless of the source''); NC 911 Board Mar. 31, 2021 Reply at 3 (stating that the NC 911 Board ''supports the Commission's apparent intent to seek greater clarity [on underfunding] through the Strike Force''); IAFC Apr. 2, 2021 Reply at 5–6 (quoting and supporting APCO's assertion that the Commission should use the Strike Force and annual reports to produce helpful information regarding underfunding). We note that the 911 Strike Force is due to submit its report to Congress by September of this year, which will not be enough time for the agency to pass along underfunding information collected through the fee report process this year. The 911 Strike Force will examine, however, the impact of fee diversion on underfunding, and the Commission will submit to the 911 Strike Force the information that it currently has, as mandated by statute. *See* 47 U.S.C. 615a–1 Statutory Notes (as amended); sec. 902(d)(1)–(3).

(OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA). OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, we previously sought, but did not receive, specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission does not believe that the new or modified information collection requirements in § 9.25(b) will be unduly burdensome on small businesses. Applying these modified information collections will implement section 902 and promote transparency in the collection and expenditure of 911 fees. We describe impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the FRFA in Appendix B of the Commission's Report and Order.

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

Additional Information. For additional information on this proceeding, contact Brenda Boykin, *Brenda.Boykin@fcc.gov* or 202–418–2062, Rachel Wehr, *Rachel.Wehr@fcc.gov* or 202–418–1138, or Jill Coogan, *Jill.Coogan@fcc.gov* or 202–418–1499, of the Public Safety and Homeland Security Bureau, Policy and Licensing Division.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM adopted in February 2021. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were filed addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Final Rules

The Report and Order adopts rules to implement section 902 of the Consolidated Appropriations Act, 2021 that required the Commission to take action to help address the diversion of 911 fees by states and taxing jurisdictions for purposes unrelated to 911. The Commission amends part 9 of its rules to establish a new subpart I to address the use of 911 fees and fee diversion in accordance with the requirements of section 902. More specifically, the rules the Commission adopts in the new subpart I designate illustrative, non-exhaustive purposes and functions for the obligation or expenditure of 911 fees or charges by states and taxing jurisdiction authorized to impose such a fee or charge that are acceptable for purposes of section 902 and the Commission's rules; clarify what does and does not constitute 911 fee diversion; establish a declaratory ruling process for providing further guidance to states and taxing jurisdictions on fee diversion issues; and codify the specific restrictions that section 902 imposes on states and taxing jurisdictions that engage in diversion, such as the exclusion from eligibility to participate on Commission advisory committees.

The Commission adopts rules in the Report and Order that provide guidance on the types of expenditures of 911 fees for public safety radio systems and related infrastructure that can be considered acceptable but leaves the precise dividing line between acceptable and unacceptable radio expenditures open for further refinement, and refers this issue to the 911 Strike Force for further consideration and development of recommendations. The Report and Order also codifies the provision of section 902 that allows states and taxing jurisdictions to petition the FCC for a determination that an obligation or expenditure of a 911 fee for a purpose or function other than those deemed acceptable by the Commission should be treated as an acceptable expenditure. Further, the Commission amends its rules to include a voluntary safe harbor provision that provides if a state or taxing jurisdiction collects fees or charges designated for ''public safety,'' ''emergency services,'' or similar purposes and a portion of those fees goes to the support or implementation of 911 services, the obligation or expenditure of such fees or charges shall not constitute diversion provided that the state or taxing jurisdiction meets certain criteria. This safe harbor provision should incentivize states and taxing jurisdictions to be transparent about multi-purpose fees, while providing flexibility to states and taxing jurisdictions to have the 911 portion of such multi-purpose fees be deemed acceptable while not having the non-911 portion be deemed diversion.

The safe harbor provision should also provide visibility into how funds ostensibly collected for both 911 and other purposes are apportioned, while including safeguards to ensure that such apportionment is not subject to manipulation that would constitute fee diversion. Inclusion of the safe harbor furthers Congress's transparency goals and enhances our ability to determine whether 911 funds are being diverted. Without such visibility, multi-purpose fees could increase the burden on limited Commission staff resources in analyzing varied fee structures, and potentially render our rules and annual 911 fee report ineffective. The changes to part 9 adopted in the Report and Order are consistent with and advance Congress's stated objectives in section 902 in a cost-effective manner that is not unduly burdensome to providers of emergency telecommunications services or to state or taxing jurisdictions. The rules closely track the statutory language of section 902 addressing 911 fee diversion and seek to promote transparency, accountability, and integrity in the collection and expenditure of fees collected for 911 services, while providing stakeholders reasonable guidance as part of implementing section 902.

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

There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

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

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally

defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

Small Businesses, Small Organizations, Small Governmental Jurisdictions. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry-specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA's) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.

Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including voice over internet protocol (VoIP) services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

All Other Telecommunications. The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or VoIP services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million, and 15 firms had annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The rules adopted in the Report and Order to implement section 902 will impose new or additional reporting or recordkeeping and/or other compliance obligations on small and other sized state and taxing jurisdictions subject to compliance with the Commission's 911 fee obligation or expenditure requirements. While some of the requirements will only impact entities that choose to invoke the provisions, the Commission is not in a position to determine whether small entities will have to hire professionals to comply and cannot quantify the cost of compliance for small entities. Below we discuss the reporting and recordkeeping requirements implicated in the Report and Order.

New § 9.25 requires that if a State or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such State or taxing jurisdiction shall provide the information requested by the Commission to prepare the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999, as amended (47 U.S.C. 615a–1(f)(2)). Each state or taxing

jurisdiction subject to paragraph (a) of this section must file the information requested by the Commission and in the form specified by the Public Safety and Homeland Security Bureau (Bureau).

The Report and Order directs the Bureau to update the Commission's 911 fee report questionnaire to facilitate the provision of information regarding states' use of 911 funds in order for the Commission to prepare an annual report to Congress on 911 fees. The Report and Order also directs the Bureau to modify the annual fee report questionnaire to obtain additional information on the underfunding of 911 systems, including both (1) information on the impact of fee diversion on 911 underfunding, and (2) information on 911 underfunding in general.

Pursuant to the voluntary Petition for Determination process adopted in the Report and Order to resolve questions of what are and are not acceptable 911 expenditures, a petitioning state or taxing jurisdiction is required to provide information show that a proposed expenditure: (1) Supports PSAP functions or operations, or (2) has a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders. If the Commission finds that a state or taxing jurisdiction has provided sufficient documentation to make this demonstration, the statute provides that it shall grant the petition. The information and documentation that a state or taxing jurisdiction is required to provide the Commission to make the requisite showing will impact the reporting and recordkeeping requirements for small entities and others subject to the requirements.

Similarly, pursuant to the voluntary safe harbor provisions adopted in the Report and Order, small and other sized state or taxing jurisdictions that utilize the safe harbor provision to have the non-911 portion of a multi-purpose fee or charge not constitute diversion, must: (1) Specify the amount or percentage of such fees or charges that is dedicated to 911 services; (2) show that the 911 portion of such fees or charges are segregated and not commingled with any other funds; and (3) obligate or expend the 911 portion of such fees or charges for acceptable purposes and functions as defined in § 9.23 under new subpart I.

F. 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 or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

In the Report and Order the approach we take to implement the provisions of section 902 that require Commission action to help address diversion of 911 fees for other purposes by state and taxing jurisdictions, adopts changes to part 9 of the Commission's rules seeking to achieve the stated objectives of Congress's mandates in a cost-effective manner that is not unduly burdensome to providers of emergency telecommunication services or to states and taxing jurisdictions. Using this approach, we have taken the steps discussed below to minimize any significant economic impact or burden for small entities.

To promote consistency for small entities and others who will be subject to both section 902 and our rules, the rules adopted in the Report and Order and codified in part 9 of the Commission's rules, closely tracks the statutory language from section 902. Specifically, the definitions in section 902 for certain terms relating to 911 fees and fee diversion in part 9 of our rules were adopted and codified as proposed in the NPRM. For a few terms, limited modifications were made to the definition, *i.e.,* the definitions for the terms ''911 fee or charge'' and ''Diversion'' include modifications to promote regulatory parity and avoid gaps that could inadvertently interfere with the rapid deployment of effective 911 services. We believe that having consistency between section 902 and our rules will avoid additional compliance costs for small entities.

Similarly, to fulfill the Commission's obligations associated with issuing rules designating acceptable purposes and functions, we use language from section 902, codifying the statutory standard for which the obligation or expenditure of 911 fees or charges by any state or taxing jurisdiction is considered acceptable. We considered but rejected arguments to defer to states and local authorities in determining what constitutes fee diversion. A policy of deferring to states or localities on what constitutes fee diversion would negate one of the principal aspects of section 902, which is that it revises the language in 47 U.S.C. 615a–1 to make clear that fee diversion is not whatever state or local law says it is. Section 902 charges the Commission with responsibility for determining appropriate purposes and functions for expenditure of 911 funds and we agree that our rules should be reasonably broad given the evolving and diverse 911 ecosystem. The rules adopted in the Report and Order establish broad categories of acceptable purposes and functions for 911 fees and provide examples within each category to guide states and localities. Therefore, we have provided State and local jurisdictions sufficient discretion to make reasonable, good faith determinations whether specific expenditures of 911 fees are acceptable under our rules.

In the final rules we specify examples of both acceptable and unacceptable purposes and functions for the obligation or expenditure of 911 fees or charges. For example, we revised § 9.23(b)(1) from the NPRM proposal to include examples to make clear that replacement of 911 systems is an acceptable expenditure and that 911 includes pre-arrival instructions and ENS and also added a reference to cybersecurity. Identifying and including specific examples in the Commission's rules should enable small entities to avoid unacceptable expenditures in violation of our rules, which could impact eligibility for Federal grants and participation in Federal advisory committees.

Finally, we adopt two processes in the Report and Order that could minimize the economic impact for small entities, (1) the safe harbor for multi-purpose fees or charges and (2) the petition for determination. As discussed in the prior section, the safe harbor provision gives flexibility to states and taxing jurisdictions to implement multi-purpose fees or charges and to have the 911 portion of such multi-purpose fees be deemed acceptable and the non-911 portion not deemed 911 fee diversion provided certain conditions are met. Also discussed in the prior section, the Commission adopted a petition for determination process to resolve questions of what are and are not acceptable 911 expenditures, allowing states and other taxing jurisdictions to request a determination on whether a proposed expenditure would constitute fee diversion. Using these processes small, and other sized state and taxing jurisdictions can avoid violating section 902 and the Commission's rules for 911 fee diversion and any ensuing economic and other consequences.

G. Report to Congress

26. The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

IV. Ordering Clauses

Accordingly, *it is ordered,* pursuant to Sections 1, 4(i), 4(j), 4(o), 201(b), 251(e), 301, 303(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(o), 201(b), 251(e), 301, 303(b), and 303(r), the Don't Break Up the T-Band Act of 2020, Section 902 of Title IX, Division FF of the Consolidated Appropriations Act, 2021, Public Law 116–260, Section 101 of the New and Emerging Technologies 911 Improvement Act of 2008, Public Law 110–283, 47 U.S.C. 615a–1, and the Wireless Communications and Public Safety Act of 1999, Public Law 106–81, 47 U.S.C. 615 note, 615, 615a, and 615b, that this Report and Order is hereby *adopted.*

It is further ordered that the amendments of part 9 of the Commission's rules, as set forth in Appendix A of the Commission's Report and Order, *are adopted,* effective sixty (60) days after publication in the **Federal Register**. Compliance will not be required for paragraph (b) in § 9.25 until after approval by the Office of Management and Budget. The Commission delegates authority to the Public Safety and Homeland Security Bureau to publish a document in the **Federal Register** announcing that compliance date and revising paragraph (c) in § 9.25.

It is further ordered that the Office of the Managing Director, Performance Evaluation and Records Management, *shall 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, 5 U.S.C. 801(a)(1)(A).

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 9

Communications common carriers, Communications equipment, Radio, Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 9 as follows:

PART 9—911 Requirements

■ 1. The authority citation for part 9 is revised to read as follows:

Authority: 47 U.S.C. 151–154, 152(a), 155(c), 157, 160, 201, 202, 208, 210, 214, 218, 219, 222, 225, 251(e), 255, 301, 302, 303, 307, 308, 309, 310, 316, 319, 332, 403, 405, 605, 610, 615, 615 note, 615a, 615b, 615c, 615a–1, 616, 620, 621, 623, 623 note, 721, and 1471, and Section 902 of Title IX, Division FF, Pub. L. 116–260, 134 Stat. 1182, unless otherwise noted.

■ 2. Add subpart I, consisting of §§ 9.21 through 9.26, to read as follows:

Subpart I—911 Fees

Sec.
9.21 Applicability.
9.22 Definitions.
9.23 Designation of acceptable obligations or expenditures for purposes of the Consolidated Appropriations Act, 2021, Division FF, Title IX, section 902(c)(1)(C).
9.24 Petition regarding additional purposes and functions.
9.25 Participation in annual fee report data collection.
9.26 Advisory committee participation.

§ 9.21 Applicability.

The rules in this subpart apply to States or taxing jurisdictions that collect 911 fees or charges (as defined in this subpart) from commercial mobile services, IP-enabled voice services, and other emergency communications services.

§ 9.22 Definitions.

For purposes of this subpart, the terms in this section have the following meanings set forth in this section. Furthermore, where the Commission uses the term ''acceptable'' in this subpart, it is for purposes of the Consolidated Appropriations Act, 2021, Public Law 116–260, Division FF, Title IX, section 902(c)(1)(C).

911 fee or charge. A fee or charge applicable to commercial mobile services, IP-enabled voice services, or other emergency communications services specifically designated by a State or taxing jurisdiction for the support or implementation of 911 services. A 911 fee or charge shall also include a fee or charge designated for the support of public safety, emergency services, or similar purposes if the purposes or allowable uses of such fee or charge include the support or implementation of 911 services.

Diversion. The obligation or expenditure of a 911 fee or charge for a purpose or function other than the purposes and functions designated by the Commission as acceptable pursuant to § 9.23. Diversion also includes distribution of 911 fees to a political subdivision that obligates or expends such fees for a purpose or function other than those designated as acceptable by the Commission pursuant to § 9.23.

Other emergency communications services. The provision of emergency information to a public safety answering point via wire or radio communications, and may include 911 and E911 service.

State. Any of the several States, the District of Columbia, or any territory or possession of the United States.

State or taxing jurisdiction. A State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

§ 9.23 Designation of acceptable obligations or expenditures for purposes of the Consolidated Appropriations Act, 2021, Division FF, Title IX, section 902(c)(1)(C).

(a) Acceptable purposes and functions for the obligation or expenditure of 911 fees or charges for purposes of section 902 are limited to:

(1) Support and implementation of 911 services provided by or in the State or taxing jurisdiction imposing the fee or charge; and

(2) Operational expenses of public safety answering points within such State or taxing jurisdiction.

(b) Examples of acceptable purposes and functions include, but are not limited to, the following, provided that the State or taxing jurisdiction can adequately document that it has obligated or spent the fees or charges in question for these purposes and functions:

(1) PSAP operating costs, including lease, purchase, maintenance, replacement, and upgrade of customer premises equipment (CPE) (hardware and software), computer aided dispatch (CAD) equipment (hardware and software), and the PSAP building/facility and including NG911, cybersecurity, pre-arrival instructions, and emergency notification systems (ENS). PSAP operating costs include technological innovation that supports 911;

(2) PSAP personnel costs, including telecommunicators' salaries and training;

(3) PSAP administration, including costs for administration of 911 services and travel expenses associated with the provision of 911 services;

(4) Integrating public safety/first responder dispatch and 911 systems, including lease, purchase, maintenance, and upgrade of CAD hardware and software to support integrated 911 and public safety dispatch operations; and

(5) Providing for the interoperability of 911 systems with one another and with public safety/first responder radio systems.

(c) Examples of purposes and functions that are not acceptable for the obligation or expenditure of 911 fees or charges for purposes of section 902 include, but are not limited to, the following:

(1) Transfer of 911 fees into a State or other jurisdiction's general fund or other fund for non-911 purposes;

(2) Equipment or infrastructure for constructing or expanding non-public safety communications networks (*e.g.,* commercial cellular networks); and

(3) Equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities that does not directly support providing 911 services.

(d) If a State or taxing jurisdiction collects fees or charges designated for ''public safety,'' ''emergency services,'' or similar purposes that include the support or implementation of 911 services, the obligation or expenditure of such fees or charges shall not constitute diversion provided that the State or taxing jurisdiction:

(1) Specifies the amount or percentage of such fees or charges that is dedicated to 911 services;

(2) Ensures that the 911 portion of such fees or charges is segregated and not commingled with any other funds; and

(3) Obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined under this section.

§ 9.24 Petition regarding additional purposes and functions.

(a) A State or taxing jurisdiction may petition the Commission for a determination that an obligation or expenditure of 911 fees or charges for a purpose or function other than the purposes or functions designated as acceptable in § 9.23 should be treated as an acceptable purpose or function. Such a petition must meet the requirements applicable to a petition for declaratory ruling under § 1.2 of this chapter.

(b) The Commission shall grant the petition if the State or taxing jurisdiction provides sufficient documentation to demonstrate that the purpose or function:

(1) Supports public safety answering point functions or operations; or

(2) Has a direct impact on the ability of a public safety answering point to:

(i) Receive or respond to 911 calls; or

(ii) Dispatch emergency responders.

§ 9.25 Participation in annual fee report data collection.

(a) If a State or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such State or taxing jurisdiction shall provide the information requested by the Commission to prepare the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999, as amended (47 U.S.C. 615a–1(f)(2)).

(b) Each State or taxing jurisdiction subject to paragraph (a) of this section must file the information requested by the Commission and in the form specified by the Public Safety and Homeland Security Bureau.

(c) Paragraph (b) of this section contains information collection and recordkeeping requirements. Compliance will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising this paragraph (c) accordingly.

§ 9.26 Advisory committee participation.

Notwithstanding any other provision of law, any State or taxing jurisdiction identified by the Commission in the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999, as amended (47 U.S.C. 615a–1(f)(2)), as engaging in diversion of 911 fees or charges shall be ineligible to participate or send a representative to serve on any advisory committee established by the Commission.

[FR Doc. 2021–16068 Filed 8–16–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2020–0032; FF09M220002012;2012;FXMB1231099BPP0]

RIN 1018–BE34

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2021–22 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This rule responds to Tribal requests for U.S. Fish and Wildlife Service (hereinafter ''Service'' or ''we'') recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATES: This rule is effective August 17, 2021.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2020–0032. You may obtain copies of referenced reports from the Division of Migratory Bird Management's website at *http://www.fws.gov/migratorybirds/* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2020–0032.

Information Collection Requirements: Written comments and suggestions on the information collection requirements may be submitted at any time to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference ''OMB Control Number 1018–0171'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208–2012;1050.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act (MBTA) of July 3, 1918 (16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones

of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the May 4, 2021, **Federal Register** (86 FR 23641), we proposed special migratory bird hunting regulations for the 2021–22 hunting season for certain Indian Tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to Tribal requests for Service recognition of their reserved hunting rights, and for some Tribes, recognition of their authority to regulate hunting by both Tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both Tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by Tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by Tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the October 9, 2020, **Federal Register** (85 FR 64097), we requested that Tribes desiring special hunting regulations in the 2021–22 hunting season submit a proposal including details on:

(1) Harvest anticipated under the requested regulations;

(2) Methods that would be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(3) Steps that would be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(4) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a Tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (53 FR 31612, August 18, 1988).

The final rule described here is the final in the series of proposed and final rulemaking documents for migratory bird hunting regulations on certain Federal Indian reservations and ceded lands for the 2021–22 season. This rule sets hunting seasons, hours, areas, and limits for migratory game bird species on reservations and ceded territories. This final rule is the culmination of the rulemaking process for the Tribal migratory game bird hunting seasons, which started with the October 9, 2020, proposed rule. This final rule sets the migratory bird hunting regulations on certain Federal Indian reservations and ceded lands for the 2021–22 season.

Population Status and Harvest

Each year we publish reports that provide detailed information on the status and harvest of certain migratory game bird species. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our website at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php.*

We used the following annual reports published in August 2020 in the development of proposed frameworks for the migratory bird hunting regulations: Adaptive Harvest Management, 2021 Hunting Season; American Woodcock Population Status, 2020; Band-tailed Pigeon Population Status, 2020; Migratory Bird Hunting Activity and Harvest During the 2018–19 and 2019–20 Hunting Seasons; Mourning Dove Population Status, 2020; Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2020; and Waterfowl Population Status, 2020.

Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received during the public comment period.

Comments and Issues Concerning Tribal Proposals

For the 2021–22 migratory bird hunting season, we proposed regulations for 32 Tribes or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. However, at that time, we noted in the May 4, 2021, proposed rule (86 FR 23641) that we were proposing seasons for five Tribes who submitted proposals in past years but from whom we had not yet received proposals this year. We did not receive proposals from any of those Tribes for the 2021–22 migratory bird hunting season and, therefore, have not included regulations for those Tribes in this final rule.

The comment period for the May 4, 2021, proposed rule closed on June 3, 2021. We received seven comments on our proposed rule. Four commenters supported the proposed rule, whereas three commenters were against any hunting of migratory birds. Two of the commenters in support of the proposed rule appreciated the acknowledgment of Tribal rights to co-manage the migratory bird resource. The Service appreciates the opportunity to establish special migratory bird hunting regulations in recognition of the Tribes' reserved hunting rights, and for some Tribes, recognition of their authority to regulate hunting by both Tribal members and nonmembers on their reservations. For the three commenters that were against any hunting of migratory birds, we addressed this comment in our Final 2021–22 Frameworks for Migratory Bird Hunting Regulations, and Special Procedures for Issuance of Annual Hunting Regulations.

Required Determinations

National Environmental Policy Act (NEPA) Consideration

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl

hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2021–22,'' with its corresponding May 2021 finding of no significant impact. The programmatic document, as well as the separate environmental assessment, is available on our website at *https://www.fws.gov/birds/index.php.*

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Secretary shall insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat. After we published the October 9, 2020, proposed rule (85 FR 64097), we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. The biological opinion resulting from this section 7 consultation is available as indicated under **ADDRESSES**.

Regulatory Planning and Review—Executive Orders 12866 and 13563

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed documents related to this final rule and has determined that the annual migratory bird hunting regulations are significant because they have an annual effect of $100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2021–22 season. This analysis was based on data from the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent year for which data are available (see discussion under Regulatory Flexibility Act, below). This analysis estimated consumer surplus for three alternatives for duck hunting regulations. As defined by the U.S. Office of Management and Budget (OMB) in Circular A–4, consumers' surplus is the difference between what a consumer pays for a unit of a good or service and the maximum amount the consumer would be willing to pay for that unit. The duck hunting regulatory alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2020–21 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations similar to the regulations in the 2020–21 season. For the 2021–22 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $270–$358 million with a mid-point estimate of $314 million. We also chose Alternative 3 for the 2009–10 through 2020–21 seasons. The 2021–22 analysis is part of the record for this rule and is available as described in **ADDRESSES**.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A final regulatory flexibility analysis was prepared to analyze the economic impacts of the annual hunting regulations on small business entities. This analysis is updated annually. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2021 analysis is based on the 2016 National Survey and the U.S. Department of Commerce's County Business Patterns, from which it is estimated that migratory bird hunters will spend approximately $2.2 billion at small businesses in 2021. Copies of the analysis are available as set forth in **ADDRESSES**.

Small Business Regulatory Enforcement Fairness Act

The annual migratory bird hunting regulations constitute a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act as they will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, which are time sensitive, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This final rule contains existing and new information collections that we have submitted to the OMB for review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). All information collections require approval under the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, ''North American Woodcock Singing Ground Survey'' (expires 2/29/2024).
- 1018–0023, ''Migratory Bird Surveys, 50 CFR 20.20'' (expires 4/30/2023).
- 1018–0171, ''Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20'' (expires 2/29/2024).

The information collection requirements associated with the procedures for establishing annual migratory bird hunting seasons are described below (to include those labeled as ''(NEW)'' under ''(2) Reports'') require OMB approval:

Migratory game birds are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when ''hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any * * * bird, or any part, nest, or egg'' of migratory game birds can take place, and to adopt regulations for this purpose. These regulations are written after giving due regard to ''the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds'' and are updated annually (16 U.S.C. 704(a)). This responsibility has been delegated to the Service as the lead Federal agency for managing and

conserving migratory birds in the United States. However, migratory game bird management is a cooperative effort of State, Tribal, and Federal governments. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

The Service develops migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. Acknowledging regional differences in hunting conditions, the Service has administratively divided the Nation into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State and Province in that Flyway. The Flyway Councils, established through the Association of Fish and Wildlife Agencies, also assist in researching and providing migratory game bird management information for Federal, State, and Provincial governments, as well as private conservation entities and the general public.

We request the following information to establish annual migratory bird hunting seasons:

(1) Information Requested to Establish Annual Migratory Bird Hunting Seasons:

(A) Tribes that wish to use the guidelines to establish special hunting regulations for the annual migratory game bird hunting season are required to submit a proposal that includes:

(i) The requested migratory game bird hunting season dates and other details regarding the proposed regulations;

(ii) Harvest anticipated under the proposed regulations; and

(iii) Tribal capabilities to enforce migratory game bird hunting regulations.

(B) State and U.S. territory governments that wish to establish annual migratory game bird hunting seasons are required to provide the requested dates and other details for hunting seasons in their respective States or Territories.

(2) Reports: The following reports, requested from the States and Tribes, are submitted either annually or every 3 years as explained in the following text.

(A) Reports from Experimental Hunting Seasons and Season Structure Changes:

Atlantic Flyway Council:

- Delaware—Experimental tundra swan season (yearly updates and final report)

Mississippi Flyway Council:

- Alabama—Experimental sandhill crane season (yearly updates and final report)
- Minnesota—Experimental teal-only season (yearly updates and final report) *(NEW)*

Central Flyway Council:

- New Mexico—Experimental sandhill crane season in Estancia Valley (yearly updates and final report). Now operational—Annual data are still required, but there is not a final report, since this monitoring will occur in perpetuity (or as long as the State has that hunt area).
- South Dakota and Nebraska—Experimental two-tier hunting regulations study (yearly updates and final report) *(NEW)*
- Wyoming—Split (3–way) season for Canada geese (final report only)

Pacific Flyway Council:

- California—Zones and split season for white-fronted geese (final report only)
- Idaho—Experimental swan season (yearly updates and final report) *(NEW)*

(B) Additional State-specific Annual Reports:

- Arizona—Sandhill crane subspecies composition of the harvest conducted at 3-year intervals
- North Carolina and Virginia—Tundra swan harvest and hunter participation data
- Montana (Central Flyway portion), North Dakota, and South Dakota—Tundra swan harvest and hunter participation data (yearly)
- Montana (Pacific Flyway portion)—Swan harvest-monitoring program to measure species composition (yearly)
- Montana (Pacific Flyway portion), Utah, and Nevada—Swan harvest-monitoring program to measure the species composition and report detailing swan harvest, hunter participation, reporting compliance, and monitoring of swan populations in designated hunt areas (yearly)

Reports and monitoring are used for a variety of reasons. Some are used to monitor species composition of the harvest for those areas where species intermingling can confound harvest management and potential overharvest of one species can be a management concern. Others are used to determine overall harvest for those species and/or areas that are not sampled well by our overall harvest surveys due to either the limited nature/area of the hunt or season or where the harvest needs to be closely monitored. Experimental season reports are used to determine whether the experimental season is achieving its intended goals and objectives, without causing unintended harm to other species and ultimately whether the experimental season should proceed to operational status. Most experimental seasons are 3-year trials with yearly reports and a final report. Most of the other reports and monitoring are conducted either annually or at 3-year intervals.

Title: Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20.

OMB Control Number: 1018–0171.

Service Form Number: None.

Type of Request: Revision of a currently approved collection.

Description of Respondents: State and Tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Number of Annual Respondents: 82 (from 52 State governments and Territories and 30 Tribal governments).

Estimated Number of Annual Responses: 99 (includes State and Tribal governments and additional reports from States).

Average Completion Time per Response: Varies from 4 hours to 650 hours, depending on the activity.

Estimated Total Annual Burden Hours: 9,878.

Estimated Annual Non-hour Burden Cost: None.

On May 4, 2021, we published in the **Federal Register** (86 FR 23641) a proposed rule announcing to the public our intent to request that OMB approve our proposed revisions to this information collection. In that proposed rule, we solicited comments for 60 days, ending on July 6, 2021. We did not receive any comments in response to that proposed rule.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we again invite the public and other Federal agencies to comment on any aspect of this proposed information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) 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, *e.g.,* permitting electronic submission of response.

This final rule is effective immediately upon publication, for the reasons set forth below under Regulations Promulgation. We will, however, accept and consider all public comments concerning the information collection requirements received in response to this final rule. Send your written comments and suggestions on this information collection to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference ''OMB Control Number 1018–BE34'' in the subject line of your comments.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges and, therefore, will reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian Tribes and have determined that there are *de minimis* effects on Indian trust resources. We solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2021–22 migratory bird hunting season in the October 9, 2020, proposed rule (85 FR 64097). The resulting proposals were published in a separate proposed rule (86 FR 23641, May 4, 2021). Through this process to establish annual hunting regulations, we regularly coordinate with Tribes that are affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive in its regulations than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements (5 U.S.C. 551 *et seq.*). Thus, when the preliminary proposed rulemaking was published on October 9, 2020 (85 FR 64097), we established what we concluded were the longest periods possible for public comment and the most opportunities for public involvement. We also provided notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway Council proposals for regulatory change, and opportunities for additional public review during the Service Regulations Committee meeting. Therefore, sufficient public notice and opportunity for involvement have been given to affected persons regarding the migratory bird hunting frameworks for the 2021–22 hunting season.

For the reasons cited above, we find that ''good cause'' exists, within the terms of the Administrative Procedure Act at 5 U.S.C. 553(d)(3) for these regulations to take effect immediately upon publication.

Accordingly, with each participating Tribe having had an opportunity to participate in selecting the hunting seasons desired for its reservation or ceded territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations is amended as follows:

PART 20—MIGRATORY BIRD HUNTING

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703 *et seq.,* and 16 U.S.C. 742a–j.

Note: The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature.

■ 2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

Unless specifically provided for in the following entries, all of the regulations contained in 50 CFR part 20 apply to the seasons listed herein.

(a) *Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Members and Nontribal Hunters).*

Tribal Members Only

Ducks (Including Mergansers)

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Nontribal Hunters

Ducks (Including Mergansers), Coot, and Geese

Season Dates: Same as Pacific Flyway portion of Montana.

Daily Bag and Possession Limits: Same as Pacific Flyway portion of Montana.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(b) *Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only).*

Ducks

1854 and 1837 Ceded Territories:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 18 ducks, including no more than 12 mallards (only 3 of which may be hens), 9 black ducks, 9 scaup, 9 wood ducks, 9 redheads, 9 pintails, and 9 canvasbacks.

Reservation:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 12 ducks, including no more than 8 mallards (only 2 of which may be hens), 6 black ducks, 6 scaup, 6 redheads, 6 pintails, 6 wood ducks, and 6 canvasbacks.

Mergansers

1854 and 1837 Ceded Territories:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 15 mergansers, including no more than 6 hooded mergansers.

Reservation:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 10 mergansers, including no more than 4 hooded mergansers.

Canada Geese

All Areas:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 20 geese.

Coots and Common Moorhens (Common Gallinules)

All Areas:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sandhill Cranes

1854 and 1837 Ceded Territories:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: Three sandhill cranes. Crane carcass tags are required prior to hunting.

Sora and Virginia Rails

All Areas:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe

All Areas:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: Eight common snipe.

Woodcock

All Areas:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: Three woodcock.

Mourning Doves

All Areas:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: 30 mourning doves.

Tundra and Trumpeter Swans

Reservation Only:

Season Dates: Begin September 1 and end November 30, 2021.

Daily Bag Limit: Two swans. A swan carcass tag is required prior to hunting.

General Conditions:

1. While hunting waterfowl, a Tribal member must carry on his/her person a valid Ceded Territory License.

2. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset.

3. Except as otherwise noted, Tribal members will be required to comply with Tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by Service rules, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

4. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

5. There are no possession limits for migratory birds. For purposes of enforcing bag limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a Tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(c) *Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only).*

Ducks

Season Dates: Open September 1, 2021, through January 20, 2022.

Daily Bag Limit: 35 ducks, which may include no more than 8 pintail, 4 canvasback, 8 black ducks, 5 hooded merganser, 10 wood ducks, 8 redheads, and 20 mallards (only 10 of which may be hens).

Canada and Snow Geese

Season Dates: Open September 1, 2021, through February 15, 2022.

Daily Bag Limit: 15 geese.

Other Geese (White-Fronted Geese and Brant)

Season Dates: Open September 20 through December 30, 2021.

Daily Bag Limit: Five geese.

Sora Rails, Common Snipe, and Woodcock

Season Dates: Open September 1 through November 14, 2021.

Daily Bag Limit: 10 rails, 10 snipe, and 5 woodcock.

Mourning Doves

Season Dates: Open September 1 through November 14, 2021.

Daily Bag Limit: 25 mourning doves.

Sandhill Cranes

Season Dates: Open September 1 through November 14, 2021.

Daily Bag Limit: Two sandhill cranes, with a season limit of 10.

General Conditions: A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset. All other basic regulations contained in 50 CFR part 20 are valid. Other Tribal regulations apply and may be obtained at the Tribal office in Suttons Bay, Michigan.

(d) *Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only).*

The 2021–22 waterfowl hunting season regulations apply to all treaty areas (except where noted):

Ducks

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag Limit: 50 ducks in the 1837 and 1842 Treaty Area; 30 ducks in the 1836 Treaty Area.

Mergansers

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag Limit: 10 mergansers.

Geese

Season Dates: Begin September 1 and end December 31, 2021. In addition, any portion of the ceded territory that is open to State-licensed hunters for goose hunting outside of these dates will also be open concurrently for Tribal members.

Daily Bag Limit: 20 geese in aggregate.

Other Migratory Birds

Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag and Possession Limits: 20, singly, or in the aggregate, 25.

Common Snipe

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag Limit: 16 common snipe.

Woodcock: 1837 and 1842 Ceded Territories

Season Dates: Begin September 3 and end December 31, 2021.

Daily Bag Limit: 10 woodcock.

Woodcock

1836 Ceded Territories:

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag Limit: 10 woodcock.

Mourning Doves

1837 and 1842 Ceded Territories Only:

Season Dates: Begin September 1 and end November 29, 2021.

Daily Bag Limit: 15 mourning doves.

Sandhill Cranes

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag Limit: Five cranes in the 1837 and 1842 Treaty Area and no season bag limit; three cranes and no season bag limit in the 1836 Treaty Area.

Swans

1837 and 1842 Ceded Territories Only:

Season Dates: Begin September 1 and end December 31, 2021.

Daily Bag/Season Limit: Five swans. All harvested swans must be registered by presenting the fully feathered carcass to a Tribal registration station or GLIFWC warden, to be identified to species. If the total number of trumpeter swans harvested reaches 20, the swan season will be closed by emergency Tribal rule.

General Conditions:

A. All Tribal members are required to obtain a valid Tribal waterfowl hunting permit.

B. Except as otherwise noted, Tribal members are required to comply with Tribal codes that are no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles* v. *State of Wisconsin (Voigt)* and *Mille Lacs Band* v. *State of Minnesota* cases. Chapter 10 in each of these model codes regulates ceded territory migratory bird hunting. Both versions of Chapter 10 parallel Federal requirements as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations.

C. Particular regulations of note include:

1. Nontoxic shot is required for all waterfowl hunting by Tribal members.

2. Tribal members in each zone must comply with Tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

3. There are no possession limits, with the exception of 25 rails (in the aggregate). For purposes of enforcing bag limits, all migratory birds in the possession and custody of Tribal members on ceded lands are considered to have been taken on those lands unless tagged by a Tribal or State conservation warden as taken on reservation lands. All migratory birds that fall on reservation lands do not count as part of any off-reservation bag or possession limit.

4. There are no shell limit restrictions.

5. Hunting hours are from 30 minutes before sunrise to 30 minutes after sunset, except that, within the 1837 and 1842 ceded territories, hunters may use non-mechanical nets or snares that are operated by hand to take those birds subject to an open hunting season at any time. Hunters shall be permitted to capture, without the aid of other devices (*i.e.,* by hand) and immediately kill birds subject to an open season, regardless of time of day. Further explanation is provided at #7.

6. An experimental application of electronic calls (e-calls) will be continued in the 1837 and 1842 ceded territories. Up to 50 Tribal hunters will be allowed to use e-calls. Individuals using e-calls will be required to obtain a special permit; they will be required to complete a hunt diary for each hunt where e-calls are used; and they will be required to submit the hunt diary to the Commission within 2 weeks of the end of the season in order to be eligible to obtain an e-call permit for the following year. Required information will include the date, time, and location of the hunt; number of hunters; the number of each

species harvested per hunting event; if other hunters were in the area, any interactions with other hunters; and other information deemed appropriate. Diary results will be summarized and documented in a Commission report, which will be submitted to the Service. Barring unforeseen results, this experimental application would be replicated for 3 years, after which a full evaluation would be completed.

7. Within the 1837 and 1842 ceded territories, Tribal members will be allowed to use non-mechanical, hand-operated nets (*i.e.,* throw/cast nets or hand-held nets typically used to land fish) and/or hand-operated snares, and may chase and capture migratory birds without the aid of hunting devices (*i.e.,* by hand). At this time, unattended nets or snares shall not be authorized under this regulation. Tribal members using nets or snares to take migratory birds, or taking birds by hand, will be required to obtain a special permit; they will be required to complete a hunt diary for each hunt where these methods are used; and they will be required to submit the hunt diary to the Commission within 2 weeks of the end of the season in order to be eligible to obtain a permit to net migratory birds for the following year. Required information will include the date, time, and location of the hunt; number of hunters; the number of each species harvested per hunting event; and other information deemed appropriate. Diary results will be summarized and documented in a Commission report, which will be submitted to the Service. Barring unforeseen results, this experimental application would be replicated for 3 years, after which a full evaluation would be completed.

(e) *Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters).*

Ducks (Including Mergansers)

Season Dates: Open October 2 through November 30, 2021.

Daily Bag and Possession Limits: The daily bag limit is seven, including no more than two hen mallards, one pintail, two redheads, two canvasback, and two scaup. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open October 2 through November 30, 2021.

Daily Bag and Possession Limits: Two and four, respectively.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(f) *Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters).*

Nontribal Hunters on Reservation and Ceded Lands

Geese

Season Dates: Open September 18 and 19, 2021; open September 25 and 26, 2021; and open October 1, 2021, through January 8, 2022. During these periods, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: 5 Canada geese for the early season, and 20 light geese, 10 white-fronted geese, and 4 Canada geese, for the late season. The daily bag limit is 2 brant (when the State's season is open) and is in addition to dark goose limits for the late season. The possession limit is twice the daily bag limit.

Ducks

Season Dates: Open September 18 and 19, 2021; open September 25 and 26, 2021; and open October 1, 2021, through January 8, 2022.

Daily Bag and Possession Limits: Seven ducks, including no more than two female mallards, one pintail, two canvasback, two scaup, and two redheads. The possession limit is twice the daily bag limit.

Tribal Members on Ceded Lands

Geese

Season Dates: Open September 15, 2021, through January 31, 2022.

Daily Bag and Possession Limits: Six light geese and four dark geese. The daily bag limit is two brant and is in addition to dark goose limits for the late season. The possession limit is twice the daily bag limit.

Ducks

Season Dates: Open October 1, 2021, through January 31, 2022.

Daily Bag and Possession Limits: Seven ducks, including no more than two female mallards, two pintail, two canvasback, two scaup, and two redheads. The possession limit is twice the daily bag limit.

General Conditions: Tribal members must possess a valid Migratory Bird Hunting and Conservation Stamp and a Tribal ceded lands permit.

(g) *Klamath Tribe, Chiloquin, Oregon (Tribal Members Only).*

Ducks and Coots

Season Dates: Open October 5, 2021, through January 31, 2022.

Daily Bag and Possession Limits: 9 and 18, respectively.

Geese

Season Dates: Open October 5, 2021, through January 31, 2022.

Daily Bag and Possession Limits: 9 and 18, respectively.

General Conditions: Nontoxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited. Waterfowl may not be pursued or taken while using motorized craft. Shooting hours are one-half hour before sunrise to one-half hour after sunset.

(h) [Reserved]

(i) *Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only).*

1836 Ceded Territory and Tribal Reservation:

Ducks

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 12 ducks, including no more than 8 mallards (4 of which may be hens), 4 black ducks, 4 redheads, 6 wood ducks, 2 pintail, and 4 canvasback.

Merganser

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 10 (only 2 of which may be hooded merganser).

Coots and Gallinules

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 30 coots and 30 gallinules.

Canada Geese

Season Dates: Open September 1, 2021, through February 15, 2022.

Daily Bag Limit: 10 geese.

White-Fronted Geese, Brant, and Snow Geese

Season Dates: Open September 1, 2021, through February 15, 2022.

Daily Bag Limit: 10 singly or in the aggregate.

Mourning Dove

Season Dates: Open September 1, 2021, through March 1, 2022.

Daily Bag Limit: 25.

Woodcock, Snipe, and Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 5 woodcock and 25 of the other species.

Sandhill Cranes

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: Two.

General Conditions:

A. All Tribal members will be required to obtain a valid Tribal resource card and 2021–22 hunting license.

B. Except as modified by Service rules, these regulations parallel all Federal regulations contained in 50 CFR part 20. Shooting hours will be from one-half hour before sunrise to sunset.

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by Tribal members.

(2) Tribal members in each zone will comply with Tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

D. Tribal members hunting in Michigan will comply with Tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

E. Possession limits are three times the daily bag limits.

(j) *The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only).*

Ducks

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 20 ducks, including no more than 5 hen mallards, 5 black ducks, 5 redheads, 5 wood ducks, 5 pintail, 5 scaup, and 5 canvasback.

Mergansers

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 10 mergansers, including no more than 5 hooded mergansers.

Coots and Gallinules

Season Dates: Open September 15 through December 31, 2021.

Daily Bag Limit: 20.

Canada Geese

Season Dates: Open September 1, 2021, through February 8, 2022.

Daily Bag Limit: 20 in the aggregate.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 20.

Snipe

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 15.

Mourning Doves

Season Dates: Open September 1 through November 14, 2021.

Daily Bag Limit: 15.

Woodcock

Season Dates: Open September 1 through December 1, 2021.

Daily Bag Limit: 10.

Sandhill Cranes

Season Dates: Open September 1 through December 1, 2021.

Daily Bag Limit: Two.

General Conditions: Possession limits are twice the daily bag limits.

(k) *Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters).*

Tribal Members

Ducks, Mergansers, and Coots

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: Six ducks, including no more than two hen mallard and five mallards total, one pintail, two redheads, two canvasback, three wood ducks, three scaup, two bonus teal during September 1 through 16, 2021, and one mottled duck. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded mergansers. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: 6 and 18, respectively.

White-Fronted Geese

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: Two and six, respectively.

Light Geese

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 20.

Doves

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 15.

Nontribal Hunters

Ducks (Including Mergansers and Coots)

Season Dates: Open October 2, 2021, through January 6, 2022.

Daily Bag and Possession Limits: Six ducks, including five mallards (no more of which can be two hen mallards), one scaup, two canvasback, two redheads, three wood ducks, one mottled duck, one pintail, and two bonus blue-winged teal during October 3 through 18, 2021. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded mergansers. The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open October 23, 2021, through February 6, 2022.

Daily Bag and Possession Limits: 6 and 18, respectively.

White-Fronted Geese

Season Dates: Open October 23, 2021, through January 18, 2022.

Daily Bag and Possession Limits: Two and six, respectively.

Light Geese

Season Dates: Open October 23, 2021, through February 6, 2022, and open February 7 through March 10, 2022.

Daily Bag and Possession Limits: 50 and no possession limit.

Doves

Season Dates: Open September 1 through November 29, 2021.

Daily Bag Limit: 15.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot and shooting hours. Nontribal hunters must possess a valid Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the Tribe.

(l) [Reserved]

(m) [Reserved]

(n) *Makah Indian Tribe, Neah Bay, Washington (Tribal Members).*

Band-Tailed Pigeons

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: Two band-tailed pigeons.

Ducks and Coots

Season Dates: Open September 25, 2021, through January 31, 2022.

Daily Bag Limit: Seven ducks including no more than five mallards (only two of which can be a hen), one

redhead, one pintail, three scaup, and one canvasback. The seasons on wood duck and harlequin are closed. The coot daily bag limit is 25.

Geese

Season Dates: Open September 25, 2021, through January 31, 2022.

Daily Bag Limit: Four. The season on dusky Canada geese is closed.

Brant

Season Dates: Open September 25, 2021, through January 31, 2022.

Daily Bag Limit: Two per day.

General Conditions:

All other Federal regulations contained in 50 CFR part 20 apply. The following restrictions also apply:

1. As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl.

2. Additionally, shotguns must not be discharged within 300 feet of an occupied area. Hunters must be eligible, enrolled Makah Tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl.

3. The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited.

4. Only Service-approved nontoxic shot is allowed; the use of lead shot is prohibited.

5. The use of dogs is permitted to hunt waterfowl.

6. Shooting hours for all species of waterfowl are one-half hour before sunrise to sunset.

7. Open hunting areas: Makah Reservation except for designated wilderness areas and within 1 mile of the Cape Flattery and Shi-shi Trails. Off-Reservation hunting areas are specified in the general hunting regulations.

(o) *Muckleshoot Indian Tribe, Auburn, Washington (Tribal Members Only).*

Band-Tailed Pigeons, Mourning Doves, and Snipe

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 2, 15, and 8, respectively.

Ducks (Including Coots)

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: Seven ducks, including no more than two hen mallards, one mottled duck, two canvasback, three scaup, two redheads, two scoter, two long-tailed ducks, two goldeneye, and two pintail. Coot daily bag limit is 25. The Tribe has a limit on harlequin ducks of one per season.

Geese

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 4 Canada geese, 6 light geese, 10 white-fronted geese, and 2 brant. There is a year-round closure on dusky Canada geese.

All other Federal regulations contained in 50 CFR part 20 apply. The following restrictions also apply:

1. Hunting can occur on reservation and off reservation on lands where the Tribe has treaty-reserved hunting rights or has documented traditional use.

2. Shooting hours for all species of waterfowl are one-half hour before sunrise to one-half after sunset.

3. Hunters must be eligible, enrolled Muckleshoot Tribal members and must carry their Tribal identification while hunting.

4. Tribal members hunting migratory birds must also have a combined Migratory Bird Hunting Permit and Harvest Report Card.

5. The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited.

6. Hunting for migratory birds is with shotgun only. Only steel, tungsten-iron, tungsten-polymer, tungsten-matrix, and tin shot are allowed for hunting waterfowl. It is unlawful to use or possess lead shot while hunting waterfowl.

(p) *Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters).*

Band-Tailed Pigeons

Season Dates: Open September 1 through 30, 2021.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1 through 30, 2021.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (Including Mergansers and Coots)

Season Dates: Open September 25, 2021, through January 31, 2022, for 107 days total.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one mottled duck, two canvasback, two scaup (when open; see ''Scaup'' entry), two redheads, and one pintail. Coot daily bag limit is 25. Merganser daily bag limit is seven. The possession limit is three times the daily bag limit.

Scaup

Season Dates: Open September 25, 2021, through January 31, 2022, for 86 days total.

Daily Bag and Possession Limits: Two scaup. Scaup count towards the daily bag limit for ducks and mergansers; see entry ''Ducks (Including Mergansers and Coots).'' The possession limit is three times the daily bag limit.

Canada Geese

Season Dates: Open September 25, 2021, through January 31, 2022, for 107 days total.

Daily Bag and Possession Limits: 4 and 12, respectively.

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(q) *Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only).*

Ducks (Including Mergansers)

Season Dates: Open September 11 through December 5, 2021.

Daily Bag and Possession Limits: Six, including no more than six mallards (three hen mallards), two redhead, two pintail, and one hooded merganser. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1 through December 31, 2021.

Daily Bag and Possession Limits: 5 Canada geese and 5 white geese, with a possession limit of 20. A seasonal quota of 500 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Brant

Season Dates: Open September 1 through December 31, 2021.

Daily Bag and Possession Limits: 5 brant, with a possession limit of 10.

Woodcock

Season Dates: Open September 1 through November 7, 2021.

Daily Bag and Possession Limits: Two and four woodcock, respectively.

Doves

Season Dates: Open September 1 through November 7, 2021.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal member shooting hours are one-half hour before

sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including season dates, shooting hours, and bag limits, which differ from Tribal member seasons. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Tribal members are exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

(r) *Point No Point Treaty Council, Kingston, Washington (Tribal Members Only).*

Jamestown S'Klallam Tribe

Duck and Merganser

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: Seven, including no more than one harlequin duck per season. Possession limit is three times the daily bag limit.

Geese

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: The daily bag limits for Canada geese, light geese, and white-fronted geese are 5, 6, and 10, respectively. There is a year-round closure on dusky Canada geese. Possession limit is three times the daily bag limit.

Brant

Season Dates: Open January 15 through 31, 2022.

Daily Bag and Possession Limits: Two and six, respectively.

Coots

Season Dates: Open September 7, 2021, through March 10, 2022.

Daily Bag and Possession Limits: 7 and 21 coots, respectively.

Mourning Doves

Season Dates: Open September 7, 2021, through January 20, 2022.

Daily Bag and Possession Limits: 10 and 30 doves, respectively.

Snipe

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: 8 and 24 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 15 through November 30, 2021.

Daily Bag and Possession Limits: Two and six pigeons, respectively.

Port Gamble S'Klallam Tribe

Duck and Merganser

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: Seven, including no more than one harlequin duck per season. Possession limit is three times the daily bag limit.

Geese

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: The daily bag limits for Canada geese, light geese, and white-fronted geese are 5, 6, and 10, respectively. There is a year-round closure on dusky Canada geese. Possession limit is three times the daily bag limit.

Brant

Season Dates: Open January 1 through 31, 2022.

Daily Bag and Possession Limits: Two and six, respectively.

Coots

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: 7 and 21 coots, respectively.

Mourning Doves

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag and Possession Limits: 10 and 30 doves, respectively.

Snipe

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: 8 and 24 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 15 through November 30, 2021.

Daily Bag and Possession Limits: Two and six pigeons, respectively.

General Conditions: Tribal members must possess a Tribal hunting permit from the Point No Point Tribal Council pursuant to Tribal law. Hunting hours are from one-half hour before sunrise to sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(s) *The Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation, Mt. Pleasant, Michigan (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 25 doves.

Ducks

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 20, including no more than 5 hen mallards, 5 wood ducks, 5 black ducks, 5 pintails, 5 redheads, 5 scaup, and 5 canvasbacks.

Mergansers

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 10, including no more than 5 hooded mergansers.

Geese

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 20 in the aggregate.

Coots and Gallinule

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 10 woodcock.

Common Snipe

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 16.

Sora and Virginia Rails

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: 20 in the aggregate.

Sandhill Cranes

Season Dates: Open September 1, 2021, through January 31, 2022.

Daily Bag Limit: One.

General Conditions: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the daily bag limit (20). Tribal members must possess a Tribal hunting permit from the Saginaw Tribe pursuant to Tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(t) *Sauk-Suiattle Indian Tribe, Darrington, Washington (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 10 doves.

Band-Tailed Pigeons

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 10 pigeons.

Ducks

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 20.

Geese

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 20 geese.

Coots

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: 25 coots.

Brant

Season Dates: Open September 1, 2021, through March 10, 2022.

Daily Bag Limit: Five brant.

General Conditions: Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(u) *Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1 through November 14, 2021.

Daily Bag Limit: 10 doves.

Teal

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 20 in the aggregate.

Ducks

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 20, including no more than 10 mallards (only 5 of which may be hens), 5 canvasback, 5 black ducks, and 5 wood ducks.

Mergansers

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 10 in the aggregate.

Geese

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 20 in the aggregate.

Coots and Gallinule

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 2 through December 1, 2021.

Daily Bag Limit: 10.

Common Snipe

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 16.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2021.

Daily Bag Limit: 20 in the aggregate.

General Conditions: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the daily bag limit (20). Tribal members must possess a Tribal hunting permit from the Sault Ste. Marie Tribe pursuant to Tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(v) *Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters).*

Ducks, Including Mergansers

Duck Season Dates: Open October 2, 2021, through January 18, 2022.

Scaup Season Dates: Open October 2 through December 27, 2021.

Daily Bag and Possession Limits: Seven ducks and mergansers, including no more than two hen mallards, one pintail, two scaup (when open), two canvasback, and two redheads. The possession limit is three times the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots. The possession limit is three times the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 24 snipe, respectively.

Canada Geese

Season Dates: Open October 2, 2021, through January 18, 2022.

Daily Bag and Possession Limits: 4 and 12, respectively.

White-Fronted Geese

Season Dates: Open October 2, 2021, through January 18, 2022.

Daily Bag and Possession Limits: 10 and 30, respectively.

Light Geese

Season Dates: Open October 2, 2021, through January 18, 2022.

Daily Bag and Possession Limits: 20 and 60, respectively.

General Conditions: Nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Other regulations established by the Shoshone–Bannock Tribes also apply on the reservation.

(w) [Reserved]

(x) *Spokane Tribe of Indians, Wellpinit, Washington (Tribal Members Only).*

Ducks

Season Dates: Open September 2, 2021, through January 31, 2022.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, two scaup, two canvasback, and two redheads. The daily bag limit on harlequin duck is one per season. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 2, 2021, through January 31, 2022.

Daily Bag and Possession Limits: 4 Canada geese, 10 white-fronted geese, and 20 light geese. The possession limit is twice the daily bag limit.

General Conditions: Tribal members must possess a Tribal hunting permit from the Spokane Indian Tribe pursuant to Tribal law. Shooting hours are one-half hour before sunrise until sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(y) [Reserved]

(z) *Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only).*

Common Snipe

Season Dates: Open October 1, 2021, through January 31, 2022.

Daily Bag and Possession Limits: 10 and 20, respectively.

Ducks

Season Dates: Open October 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: 10 ducks, including no more than 7 mallards (only 3 of which may be hens), 3 pintails, 3 redheads, 3 scaup, and 3 canvasback. The possession limit is twice the daily bag limit.

Coots

Season Dates: Open October 1, 2021, through January 31, 2022.

Daily Bag and Possession Limits: 25 coots. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open October 1, 2021, through March 10, 2022.

Daily Bag and Possession Limits: 6 Canada geese, 12 white-fronted geese,

and 8 snow geese. The possession limit is three times the daily bag limit. The season on brant is closed.

Swans

Season Dates: Open October 1, 2021, through January 31, 2022.

Bag Limit: Two per season.

General Conditions: Tribal members hunting on lands will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal Law Enforcement. Tribal members are required to use steel shot or a nontoxic shot as required by Federal regulations. The swan season is by special draw permit only.

(aa) *Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only).*

Ceded Territory and Swinomish Reservation

Ducks and Mergansers

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: 20 and 40, respectively.

Geese

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: 10 and 20 geese, respectively.

Brant

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

Coots

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: 25 and 75 coots, respectively.

Mourning Doves

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: 15 and 30 mourning doves, respectively.

Band-Tailed Pigeons

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: Three and six band-tailed pigeons, respectively.

Snipe

Season Dates: Open September 1, 2021, through March 9, 2022.

Daily Bag and Possession Limits: 15 and 30 snipe, respectively.

General Conditions: Shooting hours are from 30 minutes before sunrise until 30 minutes after sunset. Tribal members are required to use steel shot or a nontoxic shot as required by Federal regulations.

(bb) *The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members Only).*

Ducks and Mergansers

Season Dates: Open September 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 15 ducks, including no more than 1 pintail and 2 canvasback. Possession limit is twice the daily bag limit.

Sea Ducks

Season Dates: Open September 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 15 sea ducks, including no more than 4 harlequin. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 10 geese, including no more than 4 cackling Canada geese and no dusky Canada geese. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

Coots

Season Dates: Open September 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 25 and 25 coots, respectively.

Snipe

Season Dates: Open September 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: All Tribal hunters must have a valid Tribal identification card on his or her person while hunting. All nontribal hunters must obtain and possess while hunting a valid Tulalip Tribe hunting permit and be accompanied by a Tulalip Tribal member. Shooting hours are one-half hour before sunrise to sunset, and steel or federally approved nontoxic shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(cc) *Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1 through December 31, 2021.

Daily Bag and Possession Limits: 12 and 15 mourning doves, respectively.

Ducks

Season Dates: Open October 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 15 and 20, respectively.

Coots

Season Dates: Open October 1, 2021, through February 15, 2022.

Daily Bag and Possession Limits: 20 and 30, respectively.

Geese

Season Dates: Open October 1, 2021, through February 28, 2022.

Daily Bag and Possession Limits: 7 and 10 geese, respectively.

Brant

Season Dates: Open November 1 through 10, 2021.

Daily Bag and Possession Limits: Two and two, respectively.

General Conditions: Tribal members must have the Tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, except shooting hours would be 15 minutes before official sunrise to 15 minutes after official sunset.

(dd) *Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only).*

Teal

Season Dates: Open October 5, 2021, through February 12, 2022.

Daily Bag Limit: 10 teal.

Ducks

Season Dates: Open September 21, 2021, through January 22, 2022.

Daily Bag Limit: Six ducks, including no more than four hen mallards, six black ducks, four mottled ducks, one fulvous whistling duck, four mergansers, three scaup, two hooded merganser, three wood ducks, one canvasback, two redheads, and two pintail. The season is closed for harlequin ducks.

Sea Ducks

Season Dates: Open September 21, 2021, through January 22, 2022.

Daily Bag Limit: Seven ducks including no more than four of any one species (only one of which may be a hen eider).

Woodcock

Season Dates: Open October 5 through November 13, 2021.

Daily Bag Limit: Three woodcock.

Canada Geese

Season Dates: Open September 1 through 11, 2021, and open November 23, 2021, through January 15, 2022.

Daily Bag Limit: Eight Canada geese.

Snow Geese

Season Dates: Open September 1 through 11, 2021, and open November 23, 2021, through February 12, 2022.

Daily Bag Limit: 15 snow geese.

Sora and Virginia Rails

Season Dates: Open September 1 through October 30, 2021.

Daily Bag Limit: 5 sora and 10 Virginia rails.

Snipe

Season Dates: Open September 3 through December 4, 2021.

Daily Bag Limit: Eight snipe.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(ee) *White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only).*

Ducks

Season Dates: Open September 11 through December 12, 2021.

Daily Bag Limit: 10 ducks, including no more than 2 female mallards, 2 pintails, and 2 canvasback.

Mergansers

Season Dates: Open September 11 through December 13, 2021.

Daily Bag Limit: Five mergansers, including no more than two hooded mergansers.

Geese

Season Dates: Open September 1 through December 13, 2021.

Daily Bag Limit: 10 geese through September 24, and 5 thereafter.

Coots

Season Dates: Open September 1 through November 30, 2021.

Daily Bag Limit: 20 coots.

Snipe

Season Dates: Open September 1 through November 30, 2021.

Daily Bag Limit: 10 snipe.

Mourning Doves

Season Dates: Open September 1 through November 30, 2021.

Daily Bag Limit: 25 mourning doves.

Woodcock

Season Dates: Open September 1 through November 30, 2021.

Daily Bag Limit: 10 woodcock.

Rail

Season Dates: Open September 1 through November 30, 2021.

Daily Bag Limit: 25 rail.

General Conditions: Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(ff) *White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters).*

Band-Tailed Pigeons (Wildlife Management Unit 10 and Areas South of Y–70 and Y–10 in Wildlife Management Unit 7, Only)

Season Dates: Open September 1 through 15, 2021.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves (Wildlife Management Unit 10 and Areas South of Y–70 and Y–10 in Wildlife Management Unit 7, Only)

Season Dates: Open September 1 through 15, 2021.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks and Mergansers

Season Dates: Open October 16, 2021, through January 23, 2022.

Daily Bag Limit: Seven, including no more than two redheads, one pintail, two scaup (when open; see entry ''Scaup''), seven mallards (including no more than two hen mallards), and two canvasback.

Possession Limits: Twice the daily bag limit.

Scaup

Season Dates: Open November 6, 2021, through January 23, 2022.

Daily Bag Limit: Two scaup. Scaup count towards the daily bag limit for ducks and mergansers; see entry ''Ducks and Mergansers.''

Possession Limits: Twice the daily bag limit.

Coots

Season Dates: Open October 16, 2021, through January 23, 2022.

Daily Bag and Possession Limits: 25 and 50, respectively.

Canada Geese

Season Dates: Open October 16, 2021, through January 23, 2022.

Daily Bag and Possession Limits: Three and six Canada geese, respectively.

General Conditions: All nontribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all nontribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–17438 Filed 8–16–21; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 86, No. 156
Tuesday, August 17, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM–20–28, PRM–20–29, and PRM–20–30; NRC–2015–0057]

Linear No-Threshold Model and Standards for Protection Against Radiation

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying three petitions for rulemaking (PRMs), submitted by Dr. Carol S. Marcus, Mr. Mark L. Miller, Certified Health Physicist, and Dr. Mohan Doss, et al. (collectively, the petitioners) in correspondence dated February 9, 2015, February 13, 2015, and February 24, 2015, respectively. The petitioners request that the NRC amend its regulations based on what they assert is new science and evidence that contradicts the linear no-threshold (LNT) dose-effect model that serves as the basis for the NRC's radiation protection regulations. The NRC docketed these petitions on February 20, 2015, February 27, 2015, and March 16, 2015, and assigned them Docket Numbers PRM–20–28, PRM–20–29, and PRM–20–30, respectively. The NRC is denying the three petitions because they fail to present an adequate basis supporting the request to discontinue use of the LNT model. The NRC has determined that the LNT model continues to provide a sound regulatory basis for minimizing the risk of unnecessary radiation exposure to both members of the public and radiation workers. Therefore, the NRC will maintain the current dose limit requirements contained in its regulations.

DATES: The dockets for PRM–20–28, PRM–20–29, and PRM–20–30 are closed on August 17, 2021.

ADDRESSES: Please refer to Docket ID NRC–2015–0057 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID: NRC–2015–0057. Address questions about NRC dockets to Dawn Forder, telephone: 301–415–3407, email: *Dawn.Forder@nrc.gov.* For technical questions, contact individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, a list of materials referenced in this document are provided in Section V, ''Availability of Documents.''
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–8342; email: *Vanessa.Cox@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. The Petitions

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Petition for rulemaking—requirements for filing,'' provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation in 10 CFR chapter I. By correspondence dated February 9, 2015, February 13, 2015, and February 24, 2015, respectively, the NRC received three similar petitions from Dr. Carol S. Marcus, Mark L. Miller, CHP, and Mohan Doss, Ph.D., et al.[1] The NRC published a notice of docketing for the three petitions in the **Federal Register** on June 23, 2015 (80 FR 35870), and requested public comment. The public comment period was initially set to close on September 8, 2015, but was extended to November 19, 2015.[2]

The petitioners request that the NRC amend 10 CFR part 20, ''Standards for Protection against Radiation,'' to discontinue use of the LNT model as the primary scientific basis for the agency's radiation protection standards. The petitioners' assertion is that the use of the LNT model is no longer valid based on various scientific studies. In particular, the petitioners advance the concept of radiation hormesis, which posits that low doses of ionizing radiation protect against the deleterious effects of high doses of radiation and result in beneficial effects to humans. Therefore, the petitioners request that the NRC amend its dose limits for occupational workers[3] and members of the public as follows:

- Maintain worker doses ''at present levels, with allowance of up to 100 mSv (10 rem) effective dose per year if the doses are chronic'';
- Remove the As Low As Is Reasonably Achievable (ALARA) principle entirely from the regulations, because they claim that ''it makes no sense to decrease radiation doses that are not only harmless but may be hormetic'';
- Raise the public dose limits to be the same as the worker doses, because they claim that ''these low doses may be hormetic''; and
- ''End differential doses to pregnant women, embryos and fetuses, and children under 18 years of age.''

II. Background

In 1991, the NRC issued the 10 CFR part 20 final rule, which established the current regulatory framework for the NRC's radiation protection regulations.

[1] Dr. Doss was the first of several signatories on the February 24, 2015, correspondence. The correspondence identified the signatories as members or associate members of Scientists for Accurate Radiation Information (SARI). There is no indication in the February 24, 2015, correspondence that SARI, as an organization, formally endorsed the petition from Dr. Doss, et al.

[2] 80 FR 50804–05; August 21, 2015.

[3] The terms ''occupational worker,'' ''radiation worker,'' ''nuclear worker,'' and ''worker'' are used interchangeably in this document.

All NRC licensees are subject to the NRC's radiation protection requirements set forth in 10 CFR part 20. These requirements are designed to protect both members of the public and occupational workers from harm that could be caused by a licensee's use of radioactive materials. In accordance with § 20.1101, ''Radiation protection programs,'' each licensee ''shall develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed activities.'' [4]

The LNT model has been the underlying premise of much of the NRC's radiation protection regulations since the late 1950s.[5] The LNT model provides that ionizing radiation [6] is always considered harmful and that there is no threshold below which an amount of radiation exposure to the human body is not harmful. The LNT model further holds that biological damage caused by ionizing radiation (the cancer risk and adverse hereditary effects) is directly proportional to the amount of radiation exposure to the human body (response linearity). Thus, the higher the amount of radiation exposure, or dose,[7] the higher the likelihood that the human receptor will suffer biological damage. The validity of the LNT model has been the subject of dispute within the scientific community for decades.[8] The NRC's standards for protection against radiation, which are contained in 10 CFR part 20, are underpinned by the LNT model. These radiation protection standards provide requirements for—

- Dose limits for radiation workers and members of the public,
- Monitoring and labeling radioactive materials,
- Posting signs in and around radiation areas, and
- Reporting the theft or loss of radioactive material.

The petitioners do not dispute that high doses of radiation exposure are harmful to the human body. Instead, their argument centers on low doses of radiation exposure, generally doses below 10 rem (100 mSv), the effects of which are difficult to quantify. In this regard, the petitioners contend that there is a threshold below which radiation exposure to the human body is not harmful. As described by the International Commission on Radiological Protection (ICRP) in its Publication No. 99, ''Low-dose extrapolation of radiation-related cancer risk,'' the threshold theory posits that ''there is some threshold dose below which there is either no radiation-related health detriment or a radiation-related health benefit that outweighs any detriment. If the threshold was a universal value for all individuals and all tissues, a consequence of the theory is that, at some point, a very low dose to any number of people would have no associated risk and could be ignored.'' [9]

The petitioners also advance a companion concept to the existence of a threshold, the radiation hormesis concept (hormesis), which provides that exposure of the human body to low and very low levels of ionizing radiation is beneficial to the human body.

III. Petitioners' Assertions

The petitioners request to amend NRC dose limits (dose limit for occupational workers; dose limit for embryos, fetuses, and pregnant workers; and the dose limits for the public) as well as to remove the ALARA principle for the NRC's regulations. The requested amendments to the regulations were supported by several assertions made by the petitioners. The NRC reviewed each assertion separately, as outlined in this section and followed by the NRC's response.

Petitioners' Assertion That LNT Is Not Justified by Current Science

The petitioners assert that current science does not justify the use of the LNT model and that there is a threshold below which radiation exposure to the human body is not harmful.

NRC's Response

The NRC does not agree with the petitioners' assertion. Exposure to ionizing radiation is a known cancer risk factor for humans. The LNT model assumes that, in the long term, biological damage caused by ionizing radiation (*i.e.,* cancer risk and adverse hereditary effects) is directly proportional to the dose. The NRC acknowledges the difficulties inherent in determining the amount of damage to the human body caused by low doses of radiation. The NRC, however, does not use the LNT model to assess the actual risk of low dose radiation. Instead, the NRC uses the LNT model as the basis for a regulatory framework that meets the ''adequate protection'' standard of the Atomic Energy Act of 1954, as amended (AEA). Furthermore, the LNT model is applied so that the framework can be effectively implemented by an agency that regulates diverse categories of licensees, from commercial nuclear power plants to individual industrial radiographers and nuclear medical practices. The NRC's use of the LNT model as the basis for its radiation protection regulations is premised upon the findings and recommendations of national and international authoritative scientific bodies, such as the ICRP, that have expertise in the science of radiation protection.

The NRC issued the framework for its current 10 CFR part 20 radiation protection regulations in 1991.[10] The NRC acknowledged the role of the national and international authoritative scientific bodies in the 1991 final rule, stating that ''[t]he [U.S. Atomic Energy Commission] and the NRC have generally followed the basic radiation protection recommendations of the [ICRP] and its U.S. counterpart, the National Council on Radiation Protection and Measurements (NCRP), in formulating basic radiation protection standards.'' The 1991 final rule explained that the NRC based its radiation protection regulations upon three assumptions. The first assumption concerned the use of the LNT model, which was described as follows:

> The first assumption, the linear nonthreshold dose-effect relationship, implies that the potential health risk is proportional to the dose received and that there is an incremental health risk associated with even very small doses, even radiation doses much smaller than doses received from naturally occurring radiation sources. These health risks, such as cancer, are termed stochastic because they are statistical in nature; *i.e.,* for a given level of dose, not every person exposed would exhibit the effect.[11]

The other two assumptions supporting the NRC's radiation

[4] 10 CFR 20.1101(a).

[5] The Atomic Energy Act of 1954 assigned the Atomic Energy Commission (AEC) the functions of both encouraging the use of nuclear power and regulating its safety. The AEC was the predecessor agency to the NRC.

[6] The terms ''ionizing radiation'' and ''radiation'' are used interchangeably in this document.

[7] ''The biological dose or dose equivalent, given in rems or sieverts (Sv), is a measure of the biological damage to living tissue as a result of radiation exposure.'' NRC Glossary, Definition of Dose, *https://www.nrc.gov/reading-rm/basic-ref/glossary/dose.html.*

[8] For example, in the October 2015 ACMUI teleconference, Dr. Zanzonico noted that ''[w]e all recognize that the issue of the linear no-threshold model of radiation carcinogenesis versus a hormetic model versus an alternative model remains highly controversial and really engenders very strong emotions from folks on different sides of the question.'' ACMUI, Official Transcript of Proceedings (October 28, 2015), at 18–19.

[9] ICRP, ''Low-dose extrapolation of radiation-related cancer risk,'' Pub. No. 99 (2005), at 38.

[10] 56 FR 23360; May 21, 1991. Under current NRC regulations, each NRC licensee must ensure that its operations do not exceed, for each member of the public, a total effective dose limit of 0.1 rem (1 mSv) in a calendar year. § 20.1301(a)(1). For occupational workers, the primary annual dose limit, per licensee, is a total effective dose equivalent of 5 rems (50 mSv). § 20.1201(a)(1)(i).

[11] *Id.*

protection requirements relate to stochastic and nonstochastic effects. Stochastic risks or effects from exposure to radiation are primarily the long-term potential for cancer induction and adverse hereditary effects, while deterministic or nonstochastic risks or effects are those that can be directly correlated with exposure to high or relatively high doses of radiation, such as the formation of cataracts.[12] The NRC's second assumption was that the severity of a stochastic effect is independent of, or not related to, the amount of radiation dose received.[13] The NRC's third assumption was that there is an ''apparent threshold; *i.e.,* a dose level below which the [nonstochastic] effect is unlikely to occur.'' [14] Therefore, the LNT model only applies to stochastic effects.

In the 1991 final rule, the NRC stated that these ''assumptions are necessary because it is generally impossible to determine whether or not there are any increases in the incidence of disease at very low doses and low dose rates, particularly in the range of doses to members of the general public resulting from NRC-licensed activities.'' [15] The NRC further noted that there is ''considerable uncertainty in the magnitude of the risk at low doses and low dose rates.'' [16] The NRC concluded:

> In the absence of convincing evidence that there is a dose threshold or that low levels of radiation are beneficial, the Commission believes that the assumptions regarding a linear nonthreshold dose-effect model for cancers and genetic effects and the existence of thresholds only for certain nonstochastic effects remain appropriate for formulating radiation protection standards and planning radiation protection programs.[17]

Thus, the NRC, as a regulator statutorily charged under the AEA [18] with protecting the public from radiological harm, determined in 1991 that it was prudent to assume the validity of the LNT model because of the considerable uncertainty with respect to the effect of low doses of radiation. The NRC's 1991 final rule was premised, to a large extent, upon the recommendations of ICRP Publication 26, ''Recommendations of the International Commission on Radiological Protection'' (1977), several of which, in turn, were premised upon the LNT model.[19] The 1991 final rule also referenced the government-wide ''Federal Radiation Protection Guidance for Occupational Exposure,'' signed by President Reagan in 1987, which was similarly premised upon the ICRP Publication 26 recommendations.[20]

The NRC's position remains unchanged from 1991. Convincing evidence has not yet demonstrated the existence of a threshold below which there would be no stochastic effects from exposure to low radiation doses. As such, the NRC's view is that the LNT model continues to provide a sound basis for a conservative radiation protection regulatory framework that protects both the public and occupational workers.

Despite the various studies cited by the petitioners, uncertainty and lack of consensus persists in the scientific community about the health effects of low doses of radiation. For example, the Health Physics Society (HPS) has stated that ''[h]ealth risks of radiation exposure can only be estimated with a reasonable degree of scientific certainty at radiation levels that are orders of magnitude greater than limits established by regulation for protection of the public.'' [21] The HPS has further stated ''that radiation protection literature is filled with differing views as to the shape of the radiation dose-response curve at low doses and dose rates.'' [22] According to HPS, ''[s]ome data support a linear no-threshold model, whereas other data support models that predict lower estimates of risk and perhaps even a threshold below which no detectable radiation health risk exists.'' [23]

Although there are studies and other scholarly papers that support the petitioners' assertions, there are also studies and findings that support the continued use of the LNT model, including those by national and international authoritative scientific advisory bodies. Those authoritative scientific advisory bodies that have a specialty in the subject matter area of radiation protection include, domestically, the federally chartered National Academy of Sciences (NAS) [24] and NCRP,[25] and, internationally, the ICRP and the International Atomic Energy Agency (IAEA). All four of these bodies support the continued use of the LNT model. It has been the longstanding practice of the NRC to generally place significant weight on the recommendations of these authoritative scientific advisory bodies.[26]

National Authoritative Scientific Advisory Bodies Favoring Continued Use of LNT

In 2006, the NAS published its Biological Effects of Ionizing Radiation (BEIR) VII report, ''Health Risks from Exposure to Low Levels of Ionizing Radiation,'' the seventh in a series of reports that concern the health effects from low doses of radiation, and by extension, the appropriateness of the LNT model.[27] The report was prepared by the Committee to Assess Health Risks from Exposure to Low Levels of Ionizing

[12] The NRC defines the term ''stochastic effects'' as meaning ''health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.'' § 20.1003. The NRC defines the term ''nonstochastic effects'' as meaning ''health effects, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect (also called a deterministic effect).'' *Id.*

[13] 56 FR 23360.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.,* at 23360–61.

[18] 42 U.S.C. 2011 *et seq.*

[19] 56 FR at 23360. In its Publication 26, the ICRP states ''[f]or radiation protection purposes it is necessary to make certain simplifying assumptions. One such basic assumption underlying the Commission's recommendations is that, regarding stochastic effects, there is, within the range of exposure conditions usually encountered in radiation work, a linear relationship without threshold between dose and the probability of an effect.'' ICRP Pub. No. 26.

[20] 56 FR at 23360. The ''Federal Radiation Protection Guidance for Occupational Exposure'' concerned the protection of workers from ionizing radiation and was published in the **Federal Register** on January 27, 1987 (52 FR 2822). The guidance was prepared by the Environmental Protection Agency, the NRC, and several other Federal agencies having an agency program or function that involved the use of radioactive material. The guidance stated ''[w]e have considered these [ICRP] recommendations, among others, and believe that it is appropriate to adopt the general features of the ICRP approach in radiation protection guidance to Federal agencies for occupational exposure;'' and ''[b]ased on extensive but incomplete scientific evidence, it is prudent to assume that at low levels of exposure the risk of incurring either cancer or hereditary effects is linearly related to the dose received in the relevant tissue.'' 52 FR at 2824.

[21] Position Statement of the Health Physics Society (HPS), PS008–2, ''Uncertainty in Risk Assessment,'' Adopted July 1993, Revised April 1995, February 2013.

[22] HPS PS–008–2 at 2.

[23] *Id.*

[24] The NAS ''is a private, non-profit society of distinguished scholars. Established by an Act of Congress . . . the NAS is charged with providing independent, objective advice to the nation on matters related to science and technology. Scientists are elected by their peers to membership in the NAS for outstanding contributions to research.'' *http://www.nasonline.org/about-nas/mission/.*

[25] The NCRP is a private, non-profit corporation whose mission is ''to formulate and widely disseminate information, guidance and recommendations on radiation protection and measurements which represent the consensus of leading scientific thinking.'' *http://ncrponline.org/about/mission/.*

[26] *E.g.,* 56 FR at 23360.

[27] NAS, ''Health Risks from Exposure to Low Levels of Ionizing Radiation, BEIR VII—Phase 2'' (2006) (NAS BEIR VII). The BEIR VII report may be viewed online at *https://www.nap.edu/catalog/11340/health-risks-from-exposure-to-low-levels-of-ionizing-radiation.* The NRC was one of several Federal agencies that provided funding to NAS for the BEIR VII study.

Radiation that was established by NAS for the purpose of advising ''the U.S. government on the relationship between exposure to ionizing radiation and human health.'' [28] The BEIR VII report focused on health effects from low doses of radiation (below 10 rem or 100 mSv) [29] and updated the findings of the previous report of low dose radiation, the 1990 BEIR V.

The BEIR VII committee analyzed epidemiologic data and biological data, including a study of the survivors of the Hiroshima and Nagasaki atomic bomb attacks and studies of cancer in children. The BEIR VII committee found ''that the preponderance of information indicates that there will be some risk, even at low doses'' and ''that there is no compelling evidence to indicate a dose threshold below which the risk of tumor induction is zero.'' [30] The BEIR VII committee further found ''[w]hen the complete body of research on this question is considered, a consensus view emerges. This view says that the health risks of ionizing radiation, although small at low doses, are a function of dose.'' [31] The BEIR VII committee concluded that ''current scientific evidence is consistent with the hypothesis that there is a linear, no-threshold dose-response relationship between exposure to ionizing radiation and the development of cancer in humans.'' [32]

Following the publication of BEIR V, the NCRP updated its radiation protection recommendations in its 1993 report, NCRP Report No. 116, ''Limitation of Exposure to Ionizing Radiation.'' Although the NCRP acknowledged that it could not exclude the possibility of no health risk from low doses, the NCRP expressed its reliance on the LNT model as the basis for several of its recommendations,

> Based on the hypothesis that genetic effects and some cancers may result from damage to a single cell, the Council assumes that, *for radiation-protection purposes, the risk of stochastic effects is proportional to dose without threshold, throughout the range of dose and dose rates of importance in routine radiation protection.* Furthermore, the probability of response (risk) is assumed, for radiation protection purposes, to accumulate linearly with dose.[33]

In 2001, the NCRP published Report No. 136, ''Evaluation of the Linear-Nonthreshold Dose-Response Model for Ionizing Radiation,'' which reported the work of the NCRP's Scientific Committee 1–6. Scientific Committee 1–6 was charged with reassessing ''the weight of scientific evidence for and against the linear-nonthreshold dose-response model, without reference to policy implications.'' [34] The NCRP Report No. 136 explained that the existence of the LNT model for low radiation doses must be extrapolated from data showing adverse health effects from high radiation doses and that there were differing sets of data that both showed evidence for and against the LNT model. Nevertheless, the NCRP noted ''that radiation imparts its energy to living matter through a stochastic process, such that a single ionizing track has a finite probability of depositing enough energy in traversing a cell to damage a critical molecular target within the cell, such as DNA.'' [35] After a comprehensive review of many studies, the NCRP concluded that ''[a]lthough other dose-response relationships for the mutagenic and carcinogenic effects of low-level radiation cannot be excluded, no alternate dose-response relationship appears to be more plausible than the linear-nonthreshold model on the basis of present scientific knowledge.'' [36]

In a May 2017 article published in the ''International Journal of Radiation Biology,'' the NCRP's president, Dr. John D. Boice, Jr., supports the continued use of the LNT model. Dr. Boice states that ''[t]he LNT model, at least at the current time, has been useful in radiation protection, *e.g.,* a safety culture exists that encompasses the principle of 'as low as reasonably achievable' (ALARA) considering financial and societal issues,'' and in this context, notes that ''worker exposures have dropped dramatically over the years.'' [37] Given that epidemiological studies may not demonstrate the validity of the LNT model for low doses (below 100 mSv), Dr. Boice further states that the use of the LNT model combined with the technical and professional judgment of a competent regulator provides ''a prudent basis for the practical purposes of radiological protection.'' [38] In his conclusion, Dr. Boice emphasized that the LNT model is not an appropriate mechanism to assess radiological risk but is the most appropriate model currently available for a system of radiological protection when coupled with the appropriate regulatory and technical judgment.[39]

In a study funded by the NRC, the NCRP reevaluated the LNT model based on new studies completed since the publication of NCRP Report No. 136 in June 2001. In April 2018, the NCRP released Commentary 27, ''Implications of Recent Epidemiologic Studies for the Linear-Nonthreshold Model and Radiation Protection,'' which provides a detailed assessment of currently available epidemiological evidence and concludes that ''the LNT model (with the steepness of the dose-response slope perhaps reduced by a DDREF [dose and dose rate effectiveness factor] factor) should continue to be utilized for radiation protection purposes.'' [40] The Commentary explains that ''[w]hile the LNT model is an assumption that likely cannot be scientifically validated by radiobiologic or epidemiologic evidence in the low-dose range, the preponderance of epidemiologic data is consistent with the LNT assumption, although there are a few notable exceptions.'' [41] The Commentary concludes that the ''current judgment by national and international scientific committees is that no alternative dose-response relationship appears more pragmatic or prudent for radiation protection purposes than the LNT model on the basis of available data, recognizing that the risk [for doses]

[28] *Id.,* at vii.

[29] In its report, the BEIR VII committee ''defined low dose as doses in the range of near zero up to about 100 mSv (0.1 Sv) of low-[linear energy transfer] radiation.'' NAS BEIR VII at 2. The NCRP has considered a ''very low dose'' to be a dose below 1 rem or 10 mSv. NCRP, ''Implications of Recent Epidemiologic Studies for the Linear Nonthreshold Model and Radiation Protection,'' Commentary 27 (April 24, 2018), at 66.

[30] NAS BEIR VII at 10.

[31] *Id.*

[32] *Id.,* at 323.

[33] NCRP, ''Limitation of Exposure to Ionizing Radiation,'' Report No. 116 (1993), at 10 (emphasis in the original).

[34] NCRP, ''Evaluation of the Linear-Nonthreshold Dose-Response Model for Ionizing Radiation,'' Report No. 136 (2001), at 1.

[35] *Id.,* at 208.

[36] *Id.,* at 7. *See also id.,* at 48–49 (The NCRP also stated ''[t]herefore, if radiation-induced cancer results directly from the induction of mutations involved in the oncogenic pathway, the data reported do not support the existence of a threshold.''); and *id.,* at 77 (The NCRP also noted that ''the majority of studies report linear dose-response relationships in the lower dose range with the coefficient being quite similar to the alpha coefficient of the in vitro linear-quadratic dose-response curves.'').

[37] J. Boice, Jr., ''The linear nonthreshold (LNT) model as used in radiation protection: An NCRP update,'' *International Journal of Radiation Biology,* Vol. 93, No. 10 (2017), at 1080 (Boice).

[38] *Id.*

[39] *Id.,* at 1089.

[40] NCRP, ''Implications of Recent Epidemiologic Studies for the Linear Nonthreshold Model and Radiation Protection,'' Commentary 27 (April 24, 2018), at 139. The acronym ''DDREF'' refers to the dose and dose-rate effectiveness factor, and is used to extrapolate the risk of cancer induction from high doses received acutely, and thus measurable, to those low doses, which cannot be measured and are the focus of the LNT model. *Id.,* at 20 22–23, and 34.

[41] *Id.,* at 140.

<100 mGy [<10 rad] is uncertain but small.'' [42]

International Authoritative Scientific Advisory Bodies Favoring Continued Use of LNT

The ICRP, in its Publication No. 99, ''Low-dose Extrapolation of Radiation-related Cancer Risk,'' stated that ''we are uncertain about the likelihood of a dose threshold, and that, in addition, if there should be a dose threshold, we are uncertain about what dose level it would be.'' [43] The ICRP further stated that ''the mechanistic and experimental data discussed in this monograph tend to give weight to a non-threshold model, as do the solid tumour data in the Japanese atomic bomb study.'' [44] The ICRP concluded that the ''LNT theory remains the most prudent risk model for the practical purposes of radiological protection.'' [45] The ICRP reaffirmed this conclusion in its Publication No. 103, ''The 2007 Recommendations of the International Commission on Radiological Protection'' (2007).[46] In Publication No. 103, the ICRP acknowledged that the LNT model was not ''universally accepted as a biological truth'' and that the possibility of a low-dose threshold could not be ruled out, but ''because we do not actually know what level of risk is associated with very-low-dose exposure, [the LNT model] is considered to be a prudent judgement for public policy aimed at avoiding unnecessary risk from exposure.'' [47] While a 2005 joint French Academy of Sciences and National Academy of Medicine review expressed ''doubts on the validity of using LNT for evaluating the carcinogenic risk of low doses,'' this review noted that ''[t]he LNT concept can be a useful pragmatic tool for assessing rules in radioprotection for doses above 10 mSv [1 rem].'' [48]

The IAEA, in its 1997 nuclear safety review (published in August 1998), stated that ''some researchers have interpreted experimental results and epidemiological findings as providing evidence that low doses of radiation are much more harmful than the LNT hypothesis implies. A number of mechanisms have been proposed by which this might occur, a recent example being the phenomenon of genomic instability.'' [49] The IAEA report concluded that ''[f]rom the evidence available at the present time, however, the LNT hypothesis continues to seem the most radiobiologically defensible basis for radiation protection recommendations. It is also a workable hypothesis that can underpin systems of regulation which, when applied reasonably, provide sound and sensible management of the risks from radiation.'' [50] The current IAEA radiation safety standards, *Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards,* published in 2014, relies upon the LNT model, stating that the LNT model ''is the working hypothesis on which the IAEA's safety standards are based. It is not proven—indeed it is probably not provable—for low doses and dose rates, but it is considered the most radiobiologically defensible assumption on which to base safety standards.'' [51]

Comments of Federal Agencies

In addition to the findings of the national and international authoritative scientific advisory bodies, three Federal agencies provided comments on the petitions and supported the continued use of the LNT model as the basis for the NRC's radiation protection program. The three agencies are the National Cancer Institute (NCI), National Institutes of Health, Department of Health and Human Services; National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services; and the Radiation Protection Division, Office of Air and Radiation, Environmental Protection Agency (EPA). Furthermore, the NRC's Advisory Committee on the Medical Uses of Isotopes (ACMUI) [52] recommends that the NRC continue to rely upon the LNT model.

NCI provided detailed comments during the 2015 public comment period for the petitions.[53] In response to the petitioners' assertions that several epidemiologic studies showed that individuals exposed to higher doses of radiation were less likely or no more likely to develop cancer than those who received lower doses of radiation, NCI, in its comments, noted the limitations of such studies. NCI explained that ''because epidemiologic studies are observational and not controlled experiments, differences in risks in exposed and unexposed may reflect differences in life style factors such as smoking and may not necessarily result from radiation exposure.'' [54] In addition, NCI stated in its comments:

> the petitions are selective in citing studies that appear to support hormesis (or a threshold) and omitting mention of the many studies that provide evidence of a dose-response at low doses. In some cases, analyses published many years ago are cited, when more recent analyses based on current follow-up of the same populations, often with improved dose estimates, do not support their claims.[55]

In this regard, NCI, in its comments, provided several examples of such studies and the more recent follow-up analyses that did not support the petitioners' assertions but provided ''evidence of a dose-response at low doses,'' [56] especially among children.

NIOSH also provided detailed comments during the 2015 public comment period.[57] NIOSH, in its comments, noted that the ''lines of evidence given by the petitioners are not new and are fundamentally the same as those rejected by the BEIR VII committee.'' [58] NIOSH's comments are based, in part, upon a large study of nuclear workers, completed in 2015, which found that even tiny doses slightly boost the risk of leukemia (the study has been informally referred to as the international nuclear workers or

[42] *Id.*

[43] ICRP, ''Low-dose Extrapolation of Radiation-related Cancer Risk,'' Pub. No. 99 (2005), at 108.

[44] *Id.*

[45] *Id.,* at 113.

[46] ICRP, ''The 2007 Recommendations of the International Commission on Radiological Protection,'' Pub. No. 103 (2007), at 36 and 38, 65–67.

[47] *Id.,* at A178 and A180.

[48] Academy of Sciences and National Academy of Medicine (France), ''Dose-Effect Relationships and Estimation of the Carcinogenic Effects of Low Doses of Ionizing Radiation'' (2005), at 5.

[49] IAEA, ''Measures to Strengthen International Co-Operation in Nuclear, Radiation and Waste Safety, Nuclear Safety Review for the Year 1997'' (August 1998), Attachment at 32.

[50] *Id.*

[51] IAEA, ''Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards, General Safety Requirements Part 3'' (2014), at 401.

[52] The ACMUI is an official advisory body to the NRC established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The ACMUI advises the NRC on policy and technical issues that arise in the regulation of the medical uses of radioactive material in diagnosis and therapy.

[53] NCI, A. Berrington de González, et al., ''Contribution to Nuclear Regulatory Commission (NRC) comments on petitions on linear no-threshold model and standards for protection against radiation'' (November 19, 2015) (NCI 2015). The specific component of NCI that provided the comments was the Radiation Epidemiology Branch, Division of Cancer Epidemiology and Genetics.

[54] *Id.* at 1. *See also* Boice at 1089 (''All models are wrong, but some are useful for radiation protection. LNT is an assumption. It is unlikely to be scientifically validated in the low-dose domain, and not by epidemiology'').

[55] NCI 2015, at 1.

[56] *Id.,* at 2.

[57] NIOSH, S. Toye, ''Comments of the National Institute for Occupational Safety and Health on the Nuclear Regulatory Commission Notice of Docketing and Request for Comment on Linear No-Threshold Model and Standards for Protection Against Radiation,'' September 11, 2015 (NIOSH 2015).

[58] *Id.,* at 2.

''INWORKS'' study).[59] This study included within its cohort over 308,000 nuclear industry workers from the United States, the United Kingdom, and France.[60] The INWORKS study's authors stated that ''[i]n summary, this study provides strong evidence of an association between protracted low dose radiation exposure and leukemia mortality.'' [61]

NIOSH, in its comments, further stated that its researchers and others

> conducted meta-analyses of cancer risk from low-dose exposures in a variety of populations receiving protracted exposure to external ionizing radiation [Jacob et al. 2009; Daniels and Schubauer-Berigan 2011]. These meta-analyses concluded that there is a small but significant excess risk of solid cancer and leukemia, respectively, at occupational doses received during a typical working lifetime [Walsh 2011].[62]

The NIOSH researchers and others also published two studies describing cancer risk among nuclear workers at four Department of Energy sites and the Portsmouth Naval Shipyard. According to the NIOSH comments, a pooled cohort study included nearly 120,000 nuclear workers from these five sites (these workers were also included in the larger INWORKS study). The authors of the pooled cohort study found that the ''excess relative risk (ERR) was significantly associated with occupational radiation dose for all non-smoking related cancers combined.'' [63] NIOSH stated that ''[t]hese findings suggest that the risk of these cancers rises by 0.7% and 2.0% (respectively) for every 10 millisieverts (mSv; 1 rem) increase in dose.'' [64] NIOSH, in its comments, stated that the LNT model presents ''a reasonable framework for protecting workers from excess risks associated with occupational exposure to ionizing radiation'' [65] and concluded with a recommendation that the NRC retain the current radiation protection standards.[66]

Similarly, in its comments, EPA recommended that the NRC deny the petitions. EPA stated the following:

> Within limitations imposed by statistical power, the available (and extensive) epidemiological data are broadly consistent with a linear dose-response for radiation cancer risk at moderate and low doses. Biophysical calculations and experiments demonstrate that a single track of ionizing radiation passing through a cell produces complex damage sites in DNA, unique to radiation, the repair of which is error-prone. Thus, no threshold for radiation-induced mutations is expected, and, indeed, none has been observed.[67]

EPA, in its comments, referenced four epidemiological studies conducted after BEIR VII, including the INWORKS study, two studies of ''residents along the Techa River in Russia who were exposed to radionuclides from the Mayak Plutonium Production Plant,'' and a study of children who had received computed tomography (CT) scans.[68] The EPA stated that ''[t]hese studies have shown increased risks of leukemia and other cancers at doses and dose rates below those which LNT skeptics have maintained are harmless—or even beneficial.'' [69] EPA, in its comments, referenced the findings of the various domestic and international bodies, including the NAS and concluded,

> [g]iven the continuing wide consensus on the use of LNT for regulatory purposes as well as the increasing scientific confirmation of the LNT model, it would be unacceptable to the EPA to ignore the recommendations of the NAS and other authoritative sources on this issue.[70]

EPA concluded that it could not endorse basing radiation protection on the petitioners' proposals, which it characterized as ''poorly supported and highly speculative.'' [71]

The ACMUI advises the NRC on policy and technical issues that arise in the regulation of the medical uses of radioactive material in diagnosis and therapy. The ACMUI is a committee authorized under the FACA, which regulates the formation and operation of advisory committees by Federal agencies. The ACMUI membership includes health care professionals from various disciplines, who comment on changes to NRC regulations and guidance; evaluate certain non-routine uses of radioactive material; provide technical assistance in licensing, inspection, and enforcement cases; and bring key issues to the attention of the Commission for appropriate action.

Subsequent to the filing and docketing of the petitions, the ACMUI formed a subcommittee to review and comment on the petitions. The ACMUI held a public teleconference meeting on October 28, 2015, to vote on the subcommittee's draft report.[72] The draft subcommittee report was approved by the ACMUI and issued as final on that same date.[73] The ACMUI report stated that determining the '' 'correct' dose-response model for radiation carcinogenesis remains an unsettled scientific question.'' [74] Although the report acknowledged that there ''is a large, and growing, body of scientific literature as well as mechanistic considerations'' that question the accuracy of the LNT model, the ACMUI determined that ''very large-scale epidemiological studies with long-term follow-up would be needed to actually quantify any such risks or benefits'' and that ''such studies may be logistically and financially prohibitive.'' [75] According to the ACMUI report, ''a mathematical extrapolation model remains the only practical approach to estimating the presumed excess cancer risk from low-dose radiation.'' Therefore, the ''dose-response data derived from epidemiological studies of human cohorts, such as the [1945 Hiroshima and Nagasaki atomic bombing] survivors exposed to high-dose radiation, are largely consistent with an LNT model.'' [76] In making its recommendation, the ACMUI stated that it ''recommends that, for the time being and subject to reconsideration as additional scientific evidence becomes available, the NRC continue to base the formulation of radiation protection standards on the LNT model.'' [77]

Conclusion

Based upon the current state of science, the NRC concludes that the actual level of risk associated with low doses of radiation remains uncertain and some studies, such as the INWORKS study, show there is at least some risk from low doses of radiation. Moreover, the current state of science does not provide compelling evidence of a threshold, as highlighted by the fact that no national or international authoritative scientific advisory bodies have concluded that such evidence exists. Therefore, based upon the stated

[59] K. Leuraud et al., ''Ionising Radiation and Risk of Death from Leukaemia and Lymphoma in Radiation-monitored Workers (INWORKS): An International Cohort Study, Lancet Haematology, Vol. 2'' (June 2015).

[60] *Id.,* at 278.

[61] *Id.,* at 280.

[62] NIOSH 2015, at 2.

[63] *Id.,* at 2–3.

[64] *Id.,* at 3. The NRC's general public and occupational dose limits are 1 mSv (0.1 rem) and 0.05 Sv (5 rem), respectively. See § 20.1201(a)(1) (occupational dose limit) and § 20.1301(a)(1) (public dose limit).

[65] NIOSH 2015, at 3.

[66] *Id.,* at 6.

[67] EPA, J. Edwards, ''Comments on Linear No-Threshold Model and Standards for Protection Against Radiation'' (October 7, 2015), at 1.

[68] *Id.*

[69] *Id.*

[70] *Id.,* at 2.

[71] *Id.*

[72] The meeting notice for the October 28, 2015, meeting was published in the **Federal Register** on September 8, 2015 (80 FR 53896).

[73] ACMUI, ''Final Report on the Hormesis/Linear No-Threshold Petitions'' (October 28, 2015), at 1.

[74] *Id.*

[75] *Id.,* at 1–2.

[76] *Id.,* at 2.

[77] *Id.,* at 1.

positions of the aforementioned advisory bodies; the comments and recommendations of NCI, NIOSH, and the EPA; the October 28, 2015, recommendation of the ACMUI; and its own professional and technical judgment, the NRC has determined that the LNT model continues to provide a sound regulatory basis for minimizing the risk of unnecessary radiation exposure to both members of the public and occupational workers. Consequently, the NRC will retain the dose limits for occupational workers and members of the public in 10 CFR part 20 radiation protection regulations.

Petitioners' Assertion That Hormesis Disproves the LNT Model

The petitioners advance the concept of hormesis, ''in which low levels of potentially stressful agents, such as toxins, other chemicals, ionizing radiation, etc., protect against the deleterious effects that high levels of these stressors produce and result in beneficial effects (*e.g.,* lower cancer rates).'' [78] Thus, the petitioners assert that low doses of radiation are beneficial to humans in that such doses may enhance the immune response or DNA repair processes. The petitioners request that the NRC amend its regulations to raise the dose limit for members of the public to be the same as the occupational dose limit.[79]

NRC's Response

There is scientific uncertainty and no compelling evidence as to whether the hormesis concept is valid for application to radiation protection requirements. None of the national and international authoritative scientific advisory bodies described above support the hormesis concept as a regulatory model for radiation protection. Of note, the BEIR VII report produced by NAS included a strong conclusion against applying the hormesis concept to radiation protection:

Although examples of apparent stimulatory or protective effects can be found in cellular and animal biology, the preponderance of available experimental information does not support the contention that low levels of ionizing radiation have a beneficial effect. The mechanism of any such possible effect remains obscure. At this time, the assumption that any stimulatory hormetic effects from low doses of ionizing radiation will have a significant health benefit to humans that exceeds potential detrimental effects from radiation exposure at the same dose is unwarranted.[80]

Similarly, the NCRP has found that there is not strong support for the hormesis concept in the scientific literature.[81] The NRC has determined that it is prudent to continue to rely upon the LNT model as a basis for the NRC's radiation protection regulations. Consequently, the NRC will retain the dose limits for occupational workers and members of the public in 10 CFR part 20 radiation protection regulations.

Petitioners' Assertion That the NRC has a Conflict of Interest

The petitioners suggest a conflict of interest, because the NRC is one of the Federal agencies that funded the development of the BEIR VII report by the NAS and has funded, and is funding, research by the NCRP.

NRC's Response

Sections 31.a and 161.c of the AEA authorize the NRC to enter into arrangements with organizations such as the NAS and the NCRP. Specifically, section 31.a of the AEA authorizes the NRC to enter into arrangements, with either public or private institutions or persons, for research and development and to expand theoretical and practical knowledge in the various fields specified in section 31.a, including radiological health and safety.[82] Additionally, section 161.c authorizes the NRC to ''make such studies and investigations, obtain such information . . . as the Commission may deem necessary or proper to assist it in exercising any authority provided in [the AEA].'' [83]

The petitioners merely allege a conflict of interest. The NRC did not influence or direct the findings of either the NAS or the NCRP, and the NRC is not aware of any irregularities in the methods invoked by NAS or NCRP technical experts who analyzed the data and prepared the respective reports. The petitioners did not present any evidence to the contrary. Moreover, the petitioners did not demonstrate that the findings of either the BEIR VII report or any of the various NCRP reports that were funded in part by the NRC are either technically or scientifically unsound. The NRC will continue to review and consider recommendations on radiation protection regulations provided by national and international authoritative scientific advisory bodies.

Petitioners' Assertion That the Cost of Compliance With LNT-Based Regulations Is Enormous

The petitioners assert that the cost of complying with LNT-based regulations is ''enormous'' and ''incalculable.''

NRC's Response

In 1991, the NRC issued the 10 CFR part 20 final rule, which established the current regulatory framework for the NRC's radiation protection regulations. In issuing that final rule, the Commission concluded that the rule ''provides for a substantial increase in the overall protection of the public health and safety and that the direct and indirect costs of its implementation are justified in terms of the quantitative and qualitative benefits associated with the rule.'' [84] Although the NRC acknowledges the costs involved in complying with its regulations, the NRC continues to conclude that its regulatory provisions that rely on LNT, such as the ALARA concept, remain both beneficial, in terms of the health and safety benefits they provide to both members of the public and occupational workers, and are cost-justified.[85] The petitioners have not provided any new information that would cause the NRC to revisit its findings with respect to cost that it made in 1991.

Moreover, in the 1991 final rule, the Commission further noted that if it had determined that the rule was not cost-justified, the Commission would have still issued the rule ''because the changes made to part 20 also amount to a redefinition of the level of adequate protection.'' [86] ''Adequate protection'' is the NRC's fundamental safety standard and is derived from various provisions of the AEA.[87] An ''adequate protection''

[78] Marcus petition (PRM–20–28), at 1–2.

[79] *Id.,* at 7 (''Why deprive the public of the benefits of low dose radiation?'').

[80] NAS BEIR VII, at 315.

[81] NCRP Report No. 136, at 196; *see also* NCI 2015, at 3 (''there is little data to suggest a threshold in dose, or possible hormetic (beneficial) effects of low-dose radiation exposure'').

[82] 42 U.S.C. 2051(a).

[83] 42 U.S.C. 2201(c).

[84] 56 FR at 23389.

[85] The NRC regulations define ALARA as ''making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken.'' § 20.1003. Those individuals and entities that hold NRC licenses are required, ''to the extent practical,'' to incorporate ALARA into their procedures and engineering controls in accordance with § 20.1101(b). The NRC's Regulatory Guide (RG) 8.10, ''Operating Philosophy for Maintaining Occupational and Public Radiation Exposures As Low As Is Reasonably Achievable,'' Rev. 2 (August 2016), provides guidance to NRC licensees on complying with the ALARA requirement. Other NRC regulatory guides provide additional ALARA guidance to licensees in specific categories, *e.g.,* RG 8.8 (power reactor licensees) and RG 8.18 (medical licensees).

[86] 56 FR at 23389.

[87] *E.g.,* Section 182a. of the AEA, with respect to reactor applications, requires the Commission to

Continued

finding means that the Commission or the NRC staff, if appropriate, has determined that a given requirement is the minimum necessary for public health and safety. Applicable case law holds that ''adequate protection'' findings are made without regard to cost. In this regard, the United States Court of Appeals, District of Columbia Circuit stated that—

> Section 182(a) of the Act commands the NRC to ensure that any use or production of nuclear materials ''provide[s] adequate protection to the health or safety of the public.'' 42 U.S.C. 2232(a). In setting or enforcing the standard of ''adequate protection'' that this section requires, the Commission may not consider the economic costs of safety measures. The Commission must determine, regardless of costs, the precautionary measures necessary to provide adequate protection to the public; the Commission then must impose those measures, again regardless of costs, on all holders of or applicants for operating licenses.[88]

The NRC is mandated under the AEA to impose requirements that it determines to be necessary for adequate protection of public health and safety regardless of cost. As set forth earlier in this document, the consensus of the various international and domestic authoritative scientific advisory bodies, as well as the NCI, NIOSH, and EPA, is that the LNT model should remain the basis for radiological protection regulations. Based upon these external organizations' recommendations, the recommendation of the ACMUI, and the professional and technical judgment of the NRC, those regulations that are based upon the LNT model remain necessary for adequate protection. Therefore, the NRC will continue to use the LNT model as the basis for its current radiation protection regulations in 10 CFR part 20.

IV. Public Comments on the Petition

On June 23, 2015, the NRC published in the **Federal Register** a notice of docketing of the three petitions, and requested public comment with the comment period ending on September 8, 2015.[89] On August 21, 2015, the NRC extended the comment period to November 19, 2015, to allow more time for members of the public to develop and submit their comments.[90] The NRC received over 3,200 comment submissions, with 635 of those comment submissions being unique, including comments from certified health physicists, nuclear medical professionals, other scientific professionals, scientific associations, Federal agencies, and concerned citizens.

In determining the appropriate response to the petitions, the NRC carefully reviewed the public comments. To simplify the analysis, the NRC grouped all comment letters into two main groups: Those that opposed the petitions and those that supported them. A description of the comments in both groups and the NRC's responses are provided as follows.

Comments Opposed to the Petitions

Comments: There were 535 unique comment submissions that opposed the petitioners' recommendation to discontinue use of the LNT model as a basis for the NRC's radiation protection regulations. Some of these commenters stated that the petitioners did not provide sufficient evidence to support changing the technical basis regarding radiation exposure from the LNT model to the hormesis concept. One commenter stated that the proposal to increase allowable public radiation doses to the same as those of nuclear industry workers neglects the fact that the workers made a voluntary choice to work in the nuclear industry, and thus be subject to accompanying exposure to radiation, whereas the general public did not make that choice. Another commenter stated that the LNT model is satisfactory and that there is no substantial science upon which to base any change to the current 10 CFR part 20 public and occupational dose limits. One commenter stated that no threshold exists because every organism's adaptive response varies considerably, with the very young being the most vulnerable. Another commenter stated that ''the existing standard needs to be retained, or at least, retained unless and until an undeniable and clear preponderance of the evidence indicates that the existing standard definitely should be replaced by some specific alternative.''

Response: The NRC agrees that the petitions should be denied. The NRC's rationale is set forth earlier in this document. Therefore, the NRC will not amend its radiation protection regulations in response to the petitioners' requests.

Comments Supporting the Petitions

There were 100 unique comment submissions that agreed with the petitioners. These commenters provided varied responses, and so to simplify the analysis and address each type of comment, the NRC grouped the comments by subject and separated them into subject areas. A review of the comments and the NRC's responses follow.

Comments Supporting the Petitions—General Comments; Assertions That NRC Regulations Lead to Unjustified Fear of Radiation by Authorities and the Public

Comment: The NRC received several comments that expressed support for the petitions without providing a specific rationale.

Response: These comments expressed support for the petitions in general terms and did not provide any further rationale or explanation for why the petitions should be considered for rulemaking. Therefore, no detailed response is being provided separate from the justification presented above for the NRC's denial of the petitions.

Comment: The NRC received a comment that supports the petitions based on the commenter's experiences working in the radiation protection field. The commenter concludes that, outside of individuals with experience in a nuclear facility, most individuals do not have proper authority or experience to appropriately determine proper radiation protection practices.

Response: The NRC interprets this comment to mean that those who lack experience working in a nuclear facility cannot properly understand radiation protection principles. The NRC disagrees with this comment. The NRC's radiation protection regulations, policies, and guidance are informed by operational experience, the findings and recommendations of national and international authoritative scientific advisory bodies, and academic and government research.

Comment: Several commenters expressed concern that the LNT model and the ALARA concept create an unjustified fear of radiation exposure that could lead to authorities directing mass evacuations in the event of a major nuclear incident. The commenters expressed concern that such a mass evacuation would result in casualties, some of which may be caused by mass panic, and also result in significant socioeconomic costs.

Response: The NRC disagrees with this comment. The appropriate Federal, State, and local decision-makers take many factors into account when deciding to recommend or order an evacuation, including the size and nature of the incident and the potential impacts on affected communities. With

find that ''the utilization or production of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public.'' 42 U.S.C. 2232(a).

[88] *Union of Concerned Scientists* v. *NRC,* 824 F.2d 108, 114 (D.C. Cir. 1987).

[89] 80 FR 35870.

[90] 80 FR 50804.

respect to evacuation decisions, the State and local authorities who make those decisions are not subject to the AEA or to the NRC's ALARA requirement.

Moreover, ALARA is an operating principle designed to minimize the potential stochastic effects of low levels of ionizing radiation that members of the public and occupational workers may be exposed to as a result of routine licensee activities. The long-term potential (in terms of years or even decades) for the induction of cancer from these routine activities is the primary stochastic effect that the application of ALARA seeks to minimize. In an emergency situation involving the release of radioactive material, the overriding concern associated with evacuation decisions is to avert potential acute radiation exposure.

The NRC has concluded that the selection of a specific dose response model, LNT in this case, and the ALARA concept, which is premised upon the LNT model, do not lead directly to an unjustified fear of radiation, and thereby do not directly contribute to evacuation casualties and associated socioeconomic costs after a nuclear incident. The NRC's rationale for continuing to use the LNT model as the basis for its radiation protection regulations is set forth earlier in this document. The costs of mass evacuation scenarios described by the commenters do not provide an adequate basis to discontinue the use of the LNT model.

Comment: One commenter asserted that ''there may be cases where, in efforts to minimize even low radiation exposure to workers and the public in the design, operation, and accident management of nuclear facilities, we may actually increase the probability of much larger exposures from severe accidents.''

Response: The NRC disagrees with this comment. The operating experience of nuclear facilities has not shown any relationship between severe accident risk and radiation protection practices.

Comment: Several commenters expressed concern that the public's fear of radiation exposure due to the NRC's continued use of the LNT model could result in patients postponing or foregoing CT scans and other diagnostic radiology procedures, thereby resulting in adverse medical consequences to the patient. Other commenters asserted that the use of LNT in the medical field can inhibit lifesaving processes that require a higher radiation dose than what is currently acceptable or can add to the cost of certain procedures, also inhibiting patients from receiving important treatment.

Response: The NRC disagrees with this comment. Moreover, the NRC's regulations do not apply to the decisions of a physician to prescribe a certain diagnostic or therapeutic modality to treat a patient. The physician's recommendation and the patient's decision to undergo a CT scan are wholly informed by the professional judgement of the medical provider and are therefore outside the scope of the NRC's regulatory authority. The NRC does not regulate machine-generated radiation, which is the type generated by the use of x-ray machines and CT devices. Machine-generated radiation is regulated by the states, and as such, any application of the LNT model to the NRC's radiation protection requirements would not affect these medical uses.

Moreover, current evidence demonstrates that the use of radiation producing devices in medical diagnostic tests and therapies in the United States is increasing—all while LNT has been in place as the underlying dose-response assumption for radiation protection. For example, the NCRP reported that the average medical exposure in 2006 had increased substantially from the early 1980s, primarily due to the increased use of CT, interventional fluoroscopy, and nuclear medicine.[91] With respect to CT, the NCRP stated that ''[t]echnological advances in CT and the ease of use of this technology have led to many clinical applications that have increased the use of CT at a rate of 8 to 15% per year for the last 7 to 10 years [prior to 2006].'' [92] CT scanning further increased from 2006 to 2012.[93] The use of interventional fluoroscopy and nuclear medicine have also similarly increased.[94] The commenters' claims that patients are postponing or foregoing radiology procedures is not supported. These commenters did not present evidence to support the assertion that the NRC's use of the LNT model results in adverse medical treatment consequences.

Comment: One commenter stated that the summary of the petitioners' position as described in the NRC's June 23, 2015, notice of docketing (80 FR 35870), characterized the petitions inaccurately, by stating that the petitioners wanted the NRC to amend the basis for radiation protection under 10 CFR part 20 from the LNT model to the hormesis model. The commenter expressed concerns that readers would be negatively biased against the petitions due to this representation of the petitioners' position.

Response: The NRC disagrees with this comment. In her petition, Dr. Marcus requested that the NRC amend its radiation protection regulations in 10 CFR part 20 to ''take radiation hormesis into account.'' [95] Dr. Marcus then made several specific recommendations, including the complete removal of ALARA from the NRC's radiation protection regulations; the end of ''differential doses to pregnant women; embryos and fetuses, and children under 18 years of age''; and an increase in radiation dose limits to members of the public so that the public dose limit would be equal to the dose limits for occupational workers. In her petition, Dr. Marcus states that the removal of ALARA is ''not only harmless but may be hormetic,'' and in requesting that ''[p]ublic doses should be raised to worker doses,'' asked ''[w]hy deprive the public of the benefits of low dose radiation?'' [96] In addition, Dr. Marcus referenced studies which she argued suggest that low doses of radiation decrease cancer rates and asserted ''[h]ormesis is a perfectly good alternative explanation'' for such results.[97] Similarly, in his petition, Mr. Miller recommends that ''[p]ublic dose limits should be raised to match worker dose limits, as these low doses may be hormetic,'' and that ''[l]ow-dose limits for the public perpetuates radiophobia.'' [98] Moreover, in its June 23, 2015, **Federal Register** notice of docketing, the NRC stated that the petitions were publicly-available and should be consulted for additional information.[99] Thus, the NRC concludes that it accurately summarized the petitions in its June 23, 2015, **Federal Register** notice of docketing.

Comment: One commenter stated that a public education system should be put in place to dispel fear of low-level radiation.

Response: The NRC considers this comment to be outside the scope of the issues raised by the petitions, because

[91] NCRP, ''Ionizing Radiation Exposure of the Population of the United States,'' Report No. 160 (2009), at 5.

[92] *Id.,* at 85 (alteration added).

[93] Fred A. Mettler, MD, Professor Emeritus and Clinical Professor, Department of Radiology, Mew Mexico School of Medicine, presentation entitled ''Dose, Benefit, Risk and Safety'' at the 2018 Annual Meeting of the NCRP (March 5, 2018). Dr. Mettler's presentation is expected to be published in the *Health Physics Journal* in 2019.

[94] *Id.,* at 117 (the number of procedures in radiographic fluoroscopy increased by 54% between 2002 and 2005) and at 195 (5% annual growth in the number of nuclear-medicine procedures between 1995 and 2005).

[95] Marcus petition (PRM–20–28), at 7.

[96] *Id.*

[97] *Id.,* at 4.

[98] Miller petition (PRM–20–29), at 6–7.

[99] 80 FR, at 35872.

the establishment of a public education system to dispel fears of low-level radiation is not a mission or responsibility of the NRC and is beyond the NRC's statutory authority. The NRC supports communication efforts to accurately convey the radiological risks associated with any given regulated activity. The NRC, through its communication efforts, engages stakeholders in order to foster transparency and communication between the NRC and the public (*e.g.,* through public meetings, public comment on NRC rulemakings and guidance development, the NRC's public website, and the NRC's use of social media).

Comment: The NRC received several comments requesting that the NRC conduct research on topics raised by the petition.

Response: The NRC disagrees with these comments. The comments requesting that the NRC engage in additional research is outside the scope of the subject petitions. Other Federal agencies are charged with conducting basic radiation research, such as the Department of Energy and the National Institutes of Health.

Comments Supporting the Petitions—Assertions That the LNT Model Lacks an Adequate Scientific Basis

Comment: Several commenters questioned the scientific basis of the LNT model and asserted that it should no longer be the premise of the NRC's radiological protection regulations.

Response: The NRC disagrees with these comments. The NRC's goal as a regulatory agency is to protect both the public and occupational workers from the radiological hazards associated with NRC-licensed material, activities, and facilities. The NRC uses the LNT model to establish radiation protection measures that quantify radiation exposure and set regulatory limits. The premise of the LNT model is that the long-term biological damage caused by ionizing radiation (*i.e.,* risk of cancer induction or adverse hereditary effects) is directly proportional to the dose received by the human receptor. The LNT model provides for a conservative, comprehensive radiation protection scheme that protects individuals in all population categories (male, female, adult, child, and infant) and exposure ranges by reducing the risk from low-dose radiation exposure.

As described earlier in this document, the consensus among various domestic and international authoritative scientific advisory bodies and the three Federal agencies that submitted comments (NCI, NIOSH, and EPA) is that the LNT model should remain the basis for the NRC's radiological protection regulations. Similarly, the ACMUI recommends that the NRC continue to use the LNT model. Based upon the external organizations' recommendations, the ACMUI's recommendation, and its own professional and technical judgment, the NRC has determined that the LNT model continues to provide a sound basis for minimizing the risk of unnecessary radiation exposure to both members of the public and occupational workers.

Comment: One commenter noted that multiplying the LNT-based risk coefficient by a population dose to derive a hypothetical number of cancer deaths in no way shows, proves, or demonstrates that anyone is getting cancer.

Response: The NRC disagrees with this comment. The petitions for rulemaking request that the NRC amend 10 CFR part 20 to discontinue use of the LNT model as the primary scientific basis for the agency's radiation protection standards. The NRC does not use the LNT model for deterministic mortality projections.

Comment: One commenter noted that the LNT model is flawed, because it lacks timescale modeling to account for the differences between getting a large dose over a long period of time as opposed to a large dose in a short period of time.

Response: The NRC disagrees with this comment. The LNT model, as applied by the NRC in its licensing and regulatory decisions, effectively addresses the potential health impacts of any given dose received either acutely or chronically.

Human epidemiologic studies have established that there is an increased incidence of certain cancers associated with radiation exposure at high doses and high dose rates (acute exposure). The principal source of information for risk estimation is the Japanese survivors of the atomic bombing of Hiroshima and Nagasaki in 1945, who were exposed to a range of doses at a high dose rate.[100] The NCRP defines high dose rate as a dose rate above which recovery and repair processes are unable to ameliorate the radiation damage.[101] Both the ICRP and NCRP estimate that the risk of death from radiation-induced cancer resulting from an acute exposure is 10×10^{-2} per Sv for a population of all ages.[102] However, experimental results in animals and other biological systems suggest that cancer induction from acute exposures at low doses and involving low dose rates should be less than that observed after high doses involving high dose rates.[103]

If the radiation dose is received chronically (*i.e.,* over a long period of time), the biologic response differs because much of the radiation damage is effectively and efficiently repaired.[104] To account for this difference in response to chronic low dose and low dose rate radiation exposure as compared to high dose and high dose rate radiation exposure, the ICRP and NCRP recommend, and the NRC has adopted, adjusting the risk of death from radiation exposure using a DDREF of two.[105] The DDREF is assumed to apply whenever the absorbed dose is less than 200 mSv (20 rem) and the dose rate is less than 100 mSv (10 rad) per hour.[106] Consequently, the risk coefficient for members of the public pertaining to low dose and low dose rate radiation exposure is 5×10^{-2} per Sv. This risk coefficient is further reduced to 4×10^{-2} per Sv for occupational workers because this population excludes both the very young and elderly who may be slightly more sensitive to radiation-induced carcinogenesis.[107] The risks of radiation exposure to occupational workers are described further in Regulatory Guide (RG) 8.29, ''Instruction Concerning Risks from Occupational Radiation Exposure,'' Revision 1 (1996).

Although the appropriate value of the DDREF may depend on the specific low or very low dose scenario,[108] the use of a DDREF, particularly one with a high value, does not mean that there are no harmful health effects from low and very low doses of radiation. The use of a DDREF also does not demonstrate the presence of a threshold below which no permanent harmful effects will occur. The NRC staff concludes that the use of

[100] NAS BEIR VII, at 6.

[101] NCRP Report No. 116, at 60.

[102] ICRP, ''1990 Recommendation of the International Commission on Radiological Protection,'' Pub. No. 60 (1991), at 22; NCRP Report No. 116, at 29.

[103] ICRP Pub. No. 60, at 111.

[104] UNSCEAR, ''Non-stochastic effects of irradiation,'' Report to the General Assembly, ANNEX J (1982) at 575.

[105] ICRP Pub. No. 103, at 53; ICRP Pub. No. 60, at 18; NCRP Report No. 116, at 29. Although the NRC has not formally adopted a DDREF in regulation, it has relied upon a DDREF in computer modeling. *E.g.,* NUREG–2161, ''Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a U.S. Mark I Boiling Water Reactor,'' (September 2014) at 195 (incorporating DDREF into computer modeling for offsite consequences of a postulated spent fuel pool accident).

[106] ICRP Pub. No. 60, at 19; NCRP Report No. 116, at 60.

[107] ICRP Pub. No. 60, at 22; NCRP Report No. 116, at 29.

[108] For example, a DDREF value of ''1'' (no dose and dose rate effect) is used for certain tissues such as the thyroid and a higher value (*e.g.,* a ''2'' or a ''3'') is used for other, less radio-sensitive tissues.

a DDREF in its dose calculations aligns with the LNT model.

Comment: Several commenters observed that mammals evolved in an environment with a constant low dose of radiation. One commenter noted that humans developed DNA repair mechanisms to compensate. This commenter further stated that we experience far more DNA double strand breaks during mitotic cell division than we do from exposure to background radiation. As the biological mechanisms deployed to repair DNA damage caused by mitotic cell division are well documented, the commenter concludes that the rate of DNA damage that we can accommodate is also documented. This commenter reasons that because the rate of damage is substantially greater than zero, the LNT model cannot be correct.

Response: The NRC disagrees with this comment. There is substantial scientific uncertainty regarding the ability of the human body's immune system, or other forms of adaptive response, to repair cells damaged by ionizing radiation. According to the NCI comments, the available data does not show that any immune or other adaptive response offsets the carcinogenic damage caused by a given dose of ionizing radiation.[109] NCI, in its comments, states that the ''repair of [DNA] double strand breaks (DSBs) relies on a number of pathways,'' and that these pathways are ''prone to errors,'' which may result in cell mutations, a fraction of which may lead to cancer.[110] NCI further notes that the petitioners, and by extension, the commenter, do not reference data which shows that various cohorts subjected to ''protracted radiation exposures'' develop ''an increase in stable chromosome aberrations and other markers of biological damage in the peripheral blood lymphocytes.'' [111] NCI states that such chromosome aberrations may increase the risk of cancer, and concluded that ''there is little data to suggest a threshold in dose, or possible hormetic (beneficial) effects of low-dose radiation exposure.'' [112]

Comments Supporting the Petitions—Assertions That There Are No Observable Adverse Effects From Background Radiation

Comment: Several commenters remarked that background levels of ionizing radiation, which vary significantly around the world, have never been demonstrated to be a health hazard to humans. Some commenters also noted that in regions of the world such as Brazil or India where background radiation levels are higher than normal, epidemiological studies of large cohorts of subjects living in these areas did not reveal excess cancers or diseases linked to radiation exposure. On this basis, these commenters conclude that the LNT model is based on a premise that is not supported by evidence.

Response: The NRC disagrees with these comments. The NRC notes that, in general, the inability to observe an effect does not mean that the effect has not occurred. These high background exposure studies are epidemiological in nature. They cannot be used as quantitative estimates of disease risk associated with the radiation exposure levels found in the areas studied, because the studies lack sufficient quantifiable evidence of the absence of cancer risk. As explained by NCI there are limitations associated with reliance on epidemiological studies in any effort to invalidate the LNT model. NCI noted that ''[c]ancer risks predicted by the LNT model are likely to be small at low doses; so small as to be difficult to detect in the presence of large numbers of cancers resulting from other causes.'' [113] In this regard, NCI further stated that ''because epidemiologic studies are observational in nature and not controlled experiments, differences in risks in exposed and unexposed [populations] may reflect differences in life style factors such as smoking and may not necessarily result from radiation exposure.'' [114]

In addition, the BEIR VII report prepared by NAS indicates that studies of populations exposed to natural background radiation are limited in their ability to define risk of disease in relation to radiation dose. In discussing four studies of populations exposed to natural background radiation, the BEIR VII Phase 2 report states:

> These studies did not find higher disease rates in geographic areas with high background levels of radiation exposure compared to areas with lower background levels. However, these studies were ecologic in design and utilized population-based measures of exposure rather than individual estimates of radiation dose. Thus, they cannot provide any quantitative estimates of disease risk associated with the exposure levels found in the areas studied.[115]

Also, the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) has recently published a review of cancer risk due to low dose rate radiation from environmental sources.[116] UNSCEAR concluded that ''the results of the studies of cancer risk due to radiation exposure at low dose rates from environmental radiation do not provide strong evidence for materially lower risks per unit exposure than in studies of high radiation doses and dose rates.'' [117] In this regard, UNSCEAR noted that methodological improvements in environmental studies are needed to overcome ''low statistical power, dosimetric uncertainties, imperfections in control of confounding, and any other biases'' to include ''under-ascertainment of cases (deaths or diagnoses), inaccurate cancer diagnosis, imprecise dose assessment, and residual confounding.'' [118]

Therefore, no direct inferences about radiation effects can be drawn from studies where background radiation levels are higher than normal.

Comments Supporting the Petitions—Objections to ALARA

Comment: One commenter asserted that current regulations are too restrictive and focus too heavily on radiation protection, thus creating a system that emphasizes compliance with ALARA at the expense of ''basic lab safety,'' such as somebody falling and hitting their head. The commenter posits that such accidents are far more likely than receiving a ''fatal radiation dose.''

Response: The NRC disagrees with this comment. The NRC interprets the commenter's use of the phrase ''basic lab safety'' as meaning compliance with non-radiologic safety requirements. Non-radiologic safety issues are the oversight responsibility of the Occupational Safety and Health Administration (OSHA) and appropriate State and local government agencies. Licensees are required and expected to comply with both applicable NRC requirements as well as those of OSHA and the pertinent State and local authorities. Moreover, licensees demonstrate compliance with ALARA by such actions as establishing appropriate procedures and engineering controls, providing the proper training

[109] NCI 2015, at 3.

[110] *Id.* (alteration added).

[111] *Id.*

[112] *Id.*

[113] *Id.,* at 1.

[114] *Id.*

[115] NAS BEIR VII, at 228.

[116] UNSCEAR, ''Sources, Effects and Risks of Ionizing Radiation, Annex B: Epidemiological studies of cancer risk due to low-dose-rate radiation from environmental sources,'' Report to the General Assembly with Scientific Annexes (2017) (UNSCEAR 2017 Report, Ann. B).

[117] UNSCEAR 2017 Report, Ann. B, at 153.

[118] *Id.,* at 155.

and equipment, restricting access to radiation areas, and ensuring appropriate facility design. Therefore, ALARA practices should complement and work in concert with ''basic lab safety,'' rather than degrade it.

The ALARA definition and the associated regulatory requirement also involve the concept of reasonableness, meaning that the licensee should make ''every reasonable effort'' to implement ALARA measures and should use procedures and engineering controls based upon sound radiation protection principles to achieve ALARA, to the ''extent practical.'' [119] In addition, NRC guidance indicates that non-radiological hazards should be considered in determining appropriate ALARA measures. For example, RG 8.8, ''Information Relevant to Ensuring That Occupational Radiation Exposures at Nuclear Power Stations Will Be as Low as Is Reasonable Achievable,'' states that ''a comprehensive consideration of risks and benefits will include risks from nonradiological hazards. An action taken to reduce radiation risks should not result in a significantly larger risk from other hazards.'' [120] Similarly, RG 8.10, ''Operating Philosophy for Maintaining Occupational and Public Radiation Exposures as Low as Is Reasonably Achievable,'' states that ''the decision to implement measures to reduce occupational radiation doses should be weighed against the risk of any other occupational hazards in the workplace, to minimize the total risk to the worker's health and safety.'' [121]

Finally, the commenter did not provide any support for the assertion that a licensee's compliance with ALARA or other NRC requirements based upon the LNT model undermines or otherwise impedes a licensee's ability to comply with non-radiologic safety requirements.

Comments: Several commenters objected to the use of the ALARA concept as a regulatory requirement by the NRC. Many of these commenters asserted that the implementation of ALARA results in excessive costs to licensees and as such, inhibits potential growth and innovation. Some commenters also asserted that ALARA does not strike the appropriate balance between safety and economy. Virtually all of these commenters requested the removal of the ALARA requirement in order to reduce costs.

Response: The NRC disagrees with these comments. The NRC regulations define ALARA as ''making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken.'' [122] ALARA takes into account the following, in relation to the utilization of nuclear energy and licensed materials in the public interest: (1) The state of technology, (2) the economics of improvements in relation to the state of technology, (3) the economics of improvements in relation to benefits to the public health and safety, and (4) other societal and socioeconomic considerations.[123] The NRC requires that its licensees ''use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that are [ALARA].'' [124] Furthermore, the NRC's 1991 rule stated that ''the ALARA concept is intended to be an operating principle rather than an absolute minimization of exposures.'' [125]

The regulatory language of the ALARA definition sets out the considerations in making ALARA determinations, several of which include the consideration of economic factors.[126] The NRC guidance states that '' '[r]easonably achievable' is judged by considering the state of technology and the economics of improvements in relation to all the benefits from these improvements.'' [127] In general, the NRC determines compliance with the ALARA requirement based on whether the licensee has incorporated measures to track and, if necessary, to reduce exposures; not whether exposures and doses represent an absolute minimum or whether the licensee has used all possible methods to reduce exposures. Furthermore, the level of effort expended on radiation protection programs, including compliance with the ALARA concept, should reflect the magnitude of the potential exposures—both the magnitude of average and maximum individual doses and, in facilities with large numbers of employees, collective (population) doses.[128] Thus, the size of a licensee's radiation protection program should be commensurate with the scope and extent of the licensed activities. For example, a large organization, such as a nuclear power reactor licensee, would be expected to have a considerably larger and more extensive radiation protection program than a smaller organization that may maintain lower activity sealed sources.

In addition, ALARA is achieved by implementing such fundamental measures as effective planning, training of the appropriate personnel, provision of appropriate equipment (*e.g.,* dosimeters), controlling access to radiation areas, installation of radiation monitoring systems, and preparing appropriate facility designs.[129] The regulated community has had decades of operational experience in implementing ALARA measures, and it is likely that most costs of ALARA compliance have long since been optimized. Moreover, the NRC considers many of these measures to be simply the implementation of sound operating practices. Finally, other than their general assertions, the commenters have not provided any substantive evidence demonstrating that the ALARA concept or the LNT model inhibits innovation or growth. The NRC has determined that current ALARA requirements are consistent with the LNT model of radiation protection and reasonably account for economic considerations.

Comments Supporting the Petitions—Assertion That the NRC Relies on the LNT Model as a Result of Political Pressure or Bias

Comment: Several commenters stated that the LNT model continues to remain relevant as a regulatory framework only because of political pressure or ideological or scientific bias.

Response: The NRC disagrees with this comment. The NRC is an independent regulatory agency that establishes its radiation protection regulations based, in part, on the recommendations of domestic and international authoritative scientific advisory bodies such as the ICRP, the NAS, and the NCRP. As described previously in this document, three other Federal agencies and the ACMUI recommend that the LNT model remain the basis for the NRC's radiation protection regulations. The commenters have not provided any substantive support for their assertion that political pressure or bias is motivating the NRC to continue to rely upon the LNT model. The NRC continues to conclude that, in the absence of convincing evidence that there is a dose threshold or that low

[119] 10 CFR 20.1003 and 10 CFR 20.1101(b).

[120] RG 8.8, Rev. 3, at 2.

[121] RG 8.10, Rev. 2, at 5.

[122] 10 CFR 20.1003.

[123] *Id.*

[124] 10 CFR 20.1101(b).

[125] 56 FR at 23366.

[126] 10 CFR 20.1003 (''the economics of improvements in relation to the state of technology,'' ''the economics of improvements in relation to benefits to the public health and safety,'' and ''other societal and socioeconomic considerations'').

[127] RG 8.8, Rev. 3, at 2.

[128] *Id.*

[129] RG 8.10, Rev. 2, at 5; *see also* RG 8.8, Rev. 3.

levels of radiation are beneficial, the LNT model remains a prudent and conservative basis for the NRC's radiation protection regulations.

V. Availability of Documents

The following table provides information about materials referenced in this notification. The **ADDRESSES** section of this notification provides additional information about how to access ADAMS.

Date	Document	ADAMS accession No. or **Federal Register** citation
	Submitted Petitions	
February 9, 2015	Petition for Rulemaking (PRM–20–28)	ML15051A503.
February 13, 2015	Petition for Rulemaking (PRM–20–29)	ML15057A349.
February 24, 2015	Petition for Rulemaking (PRM–20–30)	ML15075A200.
	Federal Register Notifications	
June 23, 2015	10 CFR part 20—Linear no-Threshold Model and Standards for Protection Against Radiation—Notice of Docketing and Request for Comment (PRM–20–28, PRM–20–29, and PRM–20–30).	80 FR 35870.
August 21, 2015	10 CFR part 20—Linear no-Threshold Model and Standards for Protection Against Radiation—Notice of Docketing and Request for Comment; Extension of Comment Period (PRM–20–28, PRM–20–29, and PRM–20–30).	80 FR 50804.
September 8, 2015	Advisory Committee on the Medical Uses of Isotopes: Meeting Notice	80 FR 53896.
May 21, 1991	10 CFR part 20, ''Radiation Protection,'' Advance Notice of Proposed Rulemaking; Request for Comments.	56 FR 23360.
January 27, 1987	Federal Radiation Protection Guidance for Occupational Exposure	52 FR 2822.
	Federal Regulations	
1991	10 CFR part 20, ''Standards for Protection Against Radiation''	N/A.
2006	NAS BEIR VII, ''Health Risks from Exposure to Low Levels of Ionizing Radiation''.	N/A.
1946	U.S. Code: Title 42, Chapter 23, ''Development and Control of Atomic Energy''.	N/A.
	National and International Publications	
2005	ICRP Publication 99, ''Low-dose Extrapolation of Radiation-related Cancer Risk''.	N/A.
1977	ICRP Publication 26, ''Recommendations of the International Commission on Radiological Protection''.	N/A.
1993	NCRP Report No. 116, ''Limitation of Exposure to Ionizing Radiation''	N/A.
2001	NCRP Report No. 136, ''Evaluation of the Linear-Nonthreshold Dose-Response Model for Ionizing Radiation''.	N/A.
2005	Academy of Sciences and National Academy of Medicine (France), ''Dose-Effect Relationships and Estimation of the Carcinogenic Effects of Low Doses of Ionizing Radiation''.	N/A.
August 1998	IAEA, ''Measures to Strengthen International Co-Operation in Nuclear, Radiation and Waste Safety, Nuclear Safety Review for the Year 1997''.	N/A.
2014	IAEA, ''Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards, General Safety Requirements Part 3''.	N/A.
April 24, 2018	NCRP Commentary 27, ''Implications of Recent Epidemiologic Studies for the Linear Nonthreshold Model and Radiation Protection''.	N/A.
2009	NCRP Report No. 160, ''Ionizing Radiation Exposure of the Population of the United States''.	N/A.
1991	ICRP Publication 60, ''1990 Recommendations of the International Commission on Radiological Protection''.	N/A.
2007	ICRP Publication No. 103, ''The 2007 Recommendations of the International Commission on Radiological Protection''.	N/A.
	Other Reference Documents	
July 1993	Health Physics Society, Position Statement PS008–2, ''Uncertainty in Risk Assessment,'' (Revised April 1995, February 2013).	N/A.
2017	Dr. John D. Boice, Jr., ''The linear nonthreshold (LNT) model as used in radiation protection: An NCRP update,'' International ournal of Radiation Biology, Vol. 93, No. 10.	N/A.
June 2015	K. Leuraud et al., ''Ionising Radiation and Risk of Death from Leukaemia and Lymphoma in Radiation-monitored Workers (INWORKS): An International Cohort Study, Lancet Haematology, Vol. 2''.	N/A.
October 28, 2015	ACMUI, ''Final Report on the Hormesis/Linear No-Threshold Petitions''.	ML15310A418.

Date	Document	ADAMS accession No. or **Federal Register** citation
August 2016	RG 8.10, ''Operating Philosophy for Maintaining Occupational and Public Radiation Exposures As Low As Is Reasonably Achievable,'' Rev. 2.	ML16105A136.
June 1978	RG 8.8, ''Information Relevant to Ensuring that Occupational Radiation Exposures at Nuclear Power Stations Will Be as Low as Is Reasonably Achievable,'' Rev. 3.	ML003739549.
September 2014	NUREG–2161, ''Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a U.S. Mark I Boiling Water Reactor''.	ML14255A365.
2017	UNSCEAR, ''Sources, Effects and Risks of Ionizing Radiation, Annex B: Epidemiological studies of cancer risk due to low-dose-rate radiation from environmental sources''.	N/A.
1996	RG 8.29, ''Instruction Concerning Risks from Occupational Radiation Exposure'' Rev. 1.	ML003739438.

VI. Conclusion

The NRC reviewed the petitioners' requests, as well as public comments received on the petitions. For the reasons cited in this document, the NRC is denying the three PRMs, specifically PRM–20–28, PRM–20–29, and PRM–20–30, in their entirety. Given the current state of scientific knowledge, the NRC has determined that the LNT model continues to be an appropriate basis for its radiation protection regulatory framework. Thus, the NRC's current radiation protection regulations provide for the adequate protection of human health and safety, and as such, changes to 10 CFR part 20 are not warranted at this time.

Dated: August 11, 2021.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2021–17475 Filed 8–16–21; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2020–0216]

RIN 1625–AA01

Anchorage Grounds; Cape Fear River Approach, North Carolina

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the anchorage regulations for Lockwoods Folly Inlet, NC, and adjacent waters, by establishing a new offshore anchorage and relocating and amending the existing explosives anchorage. The purpose of this proposed rule is to improve navigation and public safety by accommodating recent and anticipated future growth in cargo vessel traffic and vessel size that call on Military Ocean Terminal Sunny Point and the Port of Wilmington, NC. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before October 18, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0216 using the Federal eRulemaking 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 proposed rulemaking, call or email Marine Science Technician Chief (MSTC) Joshua O'Rourke, Sector North Carolina, U.S. Coast Guard; telephone (910) 772–2227, email *Joshua.P.Orourke@uscg.mil;* or Mr. Jerry Barnes, Waterways Management Branch, Fifth Coast Guard District, U.S. Coast Guard; telephone (757) 398–6230, email *Jerry.R.Barnes@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BOEM Bureau of Ocean Energy Management
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NM Nautical Miles
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On May 8, 2020, the Coast Guard published a notice of inquiry in the **Federal Register** (85 FR 27343) to solicit public comments on whether we should initiate a rulemaking to establish an anchorage ground offshore in the approaches to the Cape Fear River, NC, and to increase the size and relocate the existing Lockwoods Folly Inlet explosives anchorage. We received two comment letters in response, both endorsing a rulemaking to amend the anchorage regulations as described. The Coast Guard is now moving forward with this proposed rulemaking.

The Cape Fear River supports a diverse marine transportation system which includes Military Ocean Terminal Sunny Point, North Carolina State Port of Wilmington, and several oil terminals and bulk-handling facilities for cement, asphalt products, molasses, liquid chemicals, sulfur, fertilizers and liquid sugar. Military Ocean Terminal Sunny Point is a Department of Defense facility that stores and ships ammunition, dangerous cargo and explosives for United States forces worldwide. A federal navigation project provides for a channel 44 feet deep from the ocean to a point just south of Southport, NC, and 42 feet to the Lower Anchorage Basin and Turning Basin at Wilmington, NC. In support of continued port growth and growth in both size and volume of vessel traffic, the U.S. Army Corps of Engineers is considering the need for major channel depth, width, and alignment changes. These include deepening the existing federal navigation channel to the Port of Wilmington, extending the ocean entrance channel farther offshore, and widening channels in the Cape Fear River where needed.

At the same time, the demand for offshore wind energy is increasing. Plummeting costs, technological advancements, increasing demand and great economic potential have combined to make offshore wind a promising avenue for adding to a diversified national energy portfolio. In 2018, the Bureau of Ocean Energy Management (BOEM) developed and sought feedback on a Proposed Path Forward for Future

Offshore Renewable Energy Leasing on the Atlantic OCS (83 FR 14881, April 6, 2018). Offshore the Carolinas, BOEM has identified several wind energy lease and call areas and intends to work with the states of North Carolina and South Carolina using a regional model to plan and analyze these areas for potential future offshore wind leases.

Traditionally, vessels awaiting entrance and pilotage to the Cape Fear River anchor outside the traffic separation scheme west of the sea buoy (Cape Fear River Entrance Lighted Whistle Buoy CF). The Coast Guard has concerns that as wind energy areas are developed and electrical export cables installed, vessel traffic may be displaced or funneled into smaller areas, and areas traditionally used for anchoring may be impacted or lost. Establishing an adequate and dedicated offshore anchorage will preserve areas traditionally used for anchoring and alleviate potential hazardous conditions of vessels anchoring in the common approaches to the Cape Fear River.

On January 18, 1969, regulations for the Lockwoods Folly Inlet (33 CFR 110.170) explosives anchorage were published (34 FR 839) outlining the area as an anchorage reserved for the exclusive use of vessels carrying explosives. The anchorage is located within 3 nautical miles (NM) from shore and in water with charted depths between 32 and 37 feet. The Coast Guard is concerned that the anchorage does not meet the current needs of safe navigation due to the increased size and drafts of vessels that call on Military Ocean Terminal Sunny Point and the Port of Wilmington, and a better location is possible in the interest of navigation and public safety.

The purpose of this proposed rule is to accommodate recent and anticipated future growth in cargo vessel traffic and vessel size that call on Military Ocean Terminal Sunny Point and the Port of Wilmington, improve navigation and public safety, and to preserve areas traditionally used for anchoring.

The legal basis and authorities for this notice of proposed rulemaking are found in 46 U.S.C.70006, 33 CFR 1.05–1, DHS Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorage grounds.

III. Discussion of Proposed Rule

This proposed rule would formally establish an anchorage ground, Anchorage A, approximately 8 NM southwest of the Oak Island Light, west of the pilot boarding area, in an area traditionally used by cargo ships for anchoring in the approaches to the Cape Fear River, NC. This location is near existing traffic lanes and in naturally deep water with charted depths between 40 and 52 feet. This proposed rule also includes regulations intended to govern anchoring practices and provide the Captain of the Port additional controls over vessel choosing to anchor offshore. This proposed rule would also increase the size and relocate Lockwoods Folly Inlet explosives anchorage to adjacent Anchorage A on its western boundary; and rename it Anchorage B. Anchorage B would be approximately 5 NM further offshore than the existing anchorage and increase separation distances between vessels laden with explosives and the public. The use of Anchorage B would be expanded to include vessels carrying or handling dangerous cargo or cargoes of a particular hazard in addition to vessels carrying explosives; its use would be required for vessels carrying such cargoes; and vessels anchored with such cargoes would be required to display a visible red flag or light. The specific coordinates for these proposed anchorage gounds are included in the proposed regulatory text at the end of this document.

You may find an illustration of the anchorages in the docket where indicated under **ADDRESSES**. Additionally, the anchorage ground is available for viewing on the Mid-Atlantic Ocean Data Portal at *http://portal.midatlanticocean.org/visualize/*. See ''USCG Proposed Areas and Studies'' under the ''Maritime'' portion of the Data Layers section.

IV. Regulatory Analyses

We developed this proposed 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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, and historical vessel traffic data pertaining to the anchorage locations. The regulation would designate and preserve an approximately 22 square mile deep water area traditionally used by cargo ships for anchoring near existing traffic lanes. It would also relocate the existing explosives anchorage approximately 5 NM further offshore increasing separation distances between vessels laden with explosives and the public, and expand its size from approximately 5 to 7 square miles. This regulatory action provides commercial vessel anchorage needs while enhancing the navigation safety, environmental stewardship and public safety.

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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to use the anchorages may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator. The towns and communities along the Cape Fear River approaches have an economy based on tourism and numerous small entities and businesses. The establishment of Anchorage A and Anchorage B will increase controls over vessels that currently anchor in the general vicinity and increase the distance between anchored vessels and the shore and beaches, lessening impacts these small entities may currently experience.

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 proposed 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 proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed rule involves establishing an anchorage ground, Anchorage A, in an area traditionally used by cargo ships for anchoring in the approaches to the Cape Fear River, NC; and increasing the size of and relocating the Lockwoods Folly Inlet explosives anchorage to an area adjacent to Anchorage A (on its western boundary), expanding its use, and renaming it Anchorage B. Normally such actions are categorically excluded from further review under paragraph L59 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 proposed 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.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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 in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 46 U.S.C. 70006, 2071; 46 U.S.C. 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 110.170 to read as follows:

§ 110.170 Cape Fear, NC.

(a) *The anchorage grounds.* All coordinates in this section are based on the World Geodetic System (WGS 84).

(1) *Anchorage A.* The waters bound by a line connecting the following points:

TABLE 1 TO PARAGRAPH (a)(1)

Latitude	Longitude
33°47′59.09″ N	78°14′58.67″ W
33°47′59.09″ N	78°06′24.74″ W
33°46′01.22″ N	78°06′24.74″ W
33°46′01.22″ N	78°14′58.67″ W

(2) *Anchorage B.* Explosives Anchorage: The waters bound by a line connecting the following points:

TABLE 1 TO PARAGRAPH (a)(2)

Latitude	Longitude
33°47′59.09″ N	78°17′49.00″ W
33°47′59.09″ N	78°14′58.67″ W
33°46′01.22″ N	78°14′58.67″ W
33°46′01.22″ N	78°17′49.00″ W

(b) *Definitions.* As used in this section—

Cargoes of particular hazard means ''cargo of particular hazard'' as defined in § 126.3 of this chapter.

Class 1 (explosive) materials means Division 1.1, 1.2, 1.3, and 1.4 explosives, as defined in 49 CFR 173.50.

Dangerous cargo means ''certain dangerous cargo'' as defined in § 160.204 of this chapter.

U.S. naval vessel means any vessel owner, operated, chartered, or leased by the U.S. Navy; and any vessel under the operational control of the U.S. Navy or Combatant Command.

(c) *General regulations.* (1) Vessels in the Atlantic Ocean near Cape Fear River Inlet awaiting berthing space within the Port of Wilmington shall only anchor within the anchorage grounds hereby defined and established, except in cases of emergency.

(2) Vessels anchoring under circumstances of emergency outside the anchorage areas shall be shifted to new positions within the anchorage grounds immediately after the emergency ceases.

(3) Vessels may anchor anywhere within the anchorage grounds provided such anchoring does not interfere with the operations of any other vessel at anchorage; except a vessel may not anchor within 1,500 yards of a vessel carrying or handling dangerous cargoes, cargoes of a particular hazard, or Class 1 (explosive) materials. Vessels shall lie at anchor with as short of a chain or cable as conditions permit.

(4) Prior to entering the anchorage grounds, all vessels must notify the Coast Guard Captain of the Port Sector North Carolina (COTP) via VHF–FM channel 16.

(5) No vessel may anchor within the anchorage grounds for more than 72 hours without the prior approval of the COTP. To obtain this approval, contact the COTP via VHF–FM channel 16.

(6) The COTP may close the anchorage grounds and direct vessels to depart the anchorage during periods of severe weather or at other times as deemed necessary in the interest of port safety or security.

(7) The COTP may prescribe specific conditions for vessels anchoring within the anchorage grounds, including but not limited to, the number and location of anchors, scope of chain, readiness of engineering plant and equipment, usage of tugs, and requirements for maintaining communications guards on selected radio frequencies.

(d) *Regulations for vessels handling or carrying dangerous cargoes, cargoes of a particular hazard, or Class 1 (explosive) materials.* This paragraph applies to every vessel, except U.S. naval vessels, handling or carrying dangerous cargoes, cargoes of a particular hazard, or Class 1 (explosive) materials.

(1) Unless otherwise directed by the Captain of the Port, each commercial vessel handling or carrying dangerous cargoes, cargoes of a particular hazard, or Class 1 (explosive) materials must be anchored within Anchorage B.

(2) Vessels requiring the use of Anchorage B must display by day a red flag (Bravo flag) in a prominent location and by night a fixed red light. In lieu of a fixed red light, by night a red flag may be illuminated by spotlight.

Dated: August 2, 2021.

Laura M. Dickey,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2021–17291 Filed 8–16–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2020–0562; FRL–8855–01–R1]

Air Plan Approval; Rhode Island; Infrastructure State Implementation Plan Requirements for the 2015 Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision addresses the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This proposed action includes all elements of these infrastructure requirements except for portions of the ''Good Neighbor'' or ''transport'' provisions, which will be addressed in a future action. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before September 16, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2020–0562 at *https://www.regulations.gov,* or via email to *simcox.alison@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109—3912, tel. (617) 918–1684, email *simcox.alison@epa.gov.*

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

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I. Background and Purpose

On October 1, 2015, EPA promulgated a revision to the ozone NAAQS (2015 ozone NAAQS), lowering the level of both the primary and secondary standards to 0.070 parts per million (ppm).[1] Section 110(a)(1) of the CAA requires states to submit, within 3 years after promulgation of a new or revised standard, SIPs meeting the applicable requirements of section 110(a)(2).[2] On September 23, 2020, the Rhode Island Department of Environmental Services (RI DEM) submitted a revision to its State Implementation Plan (SIP).[3] The SIP revision addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2015 ozone NAAQS.

A. What is the scope of this rulemaking?

EPA is proposing to approve a SIP revision submitted by Rhode Island on September 23, 2020, addressing the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2015 ozone NAAQS, except for portions of the transport provisions, which will be addressed in a separate action.

Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make ''infrastructure SIP submissions'' to provide for the implementation, maintenance, and enforcement of the NAAQS. These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.[4] Unless otherwise noted below, we are following that approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's SIP for compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[5] EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

B. What guidance did EPA use to evaluate Rhode Island's infrastructure SIP submission?

EPA highlighted the statutory requirement to submit infrastructure SIPs within 3 years of promulgation of a new NAAQS in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 memorandum).[6] EPA has issued additional guidance documents and memoranda, including a September 13, 2013, guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2)'' (2013 memorandum).

II. EPA's Evaluation of Rhode Island's Infrastructure SIP for the 2015 Ozone Standard

Rhode Island's September 23, 2020, submission includes a detailed list of Rhode Island Laws and SIP-approved Air Quality Regulations that show how each component of its EPA-approved SIP meets the requirements of section 110(a)(2) of the CAA for the 2015 ozone NAAQS. The following review evaluates the state's submission in light of section 110(a)(2) requirements and relevant EPA guidance. For Rhode Island's September 2020 infrastructure submission, we provide an evaluation of the applicable section 110(a)(2) elements, excluding the transport provisions.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section (also referred to in this action as an element) of the Act requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[7] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

In its September 2020 submittal for the 2015 ozone NAAQS, Rhode Island cites a number of state laws and regulations in satisfaction of element A. Rhode Island DEM statutory authority with respect to air quality is set out in RIGL section 23–23–5(12), Powers and duties of the director, authorizes the RI DEM Director ''[t]o make, issue, and amend rules and regulations . . . for the prevention, control, abatement, and limitation of air pollution. . . .'' In addition, this section authorizes the Director to ''prohibit emissions, discharges and/or releases and . . . require specific control technology.'' EPA previously approved RIGL section 23–23–5 into the Rhode Island SIP on April 20, 2016 (81 FR 23175).

For Element A, Rhode Island cites over 20 state regulations that it has adopted to control emissions related to ozone and the ozone precursors, nitrogen oxides (NO_X) and volatile organic compounds (VOCs). Some of these, with their EPA approval citation[8] are listed here: No. 9 Air Pollution Control Permits (except for sections 9.13, 9.14, 9.15 and Appendix A, which have not been submitted) (84 FR 52364;

[1] National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015). Although the level of the standard is specified in the units of ppm, ozone concentrations are also described in parts per billion (ppb). For example, 0.070 ppm is equivalent to 70 ppb.

[2] SIP revisions that are intended to meet the applicable requirements of section 110(a)(1) and (2) of the CAA are often referred to as infrastructure SIPs, and the applicable elements under 110(a)(2) are referred to as infrastructure requirements.

[3] On October 15, 2020 RI DEM submitted a letter that clarified that the state had replaced the word ''Proposed'' in Appendix A (''Good Neighbor SIP'') with the word ''Final.'' Note that today's proposed action does not include this ''Good Neighbor'' (*i.e.,* transport) SIP, which will be addressed in a future action. The October 2020 clarification letter is included in the docket for today's action.

[4] EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013, Infrastructure SIP Guidance (available in the docket for today's action), as well as in numerous agency actions, including EPA's prior action on Rhode Island's infrastructure SIP to address the 2008 Ozone NAAQS. *See* 81 FR 10168 (February 29, 2016).

[5] *See Montana Envtl. Info. Ctr.* v. *Thomas,* 902 F.3d 971 (9th Cir. 2018).

[6] All referenced memoranda are included in the docket for today's action.

[7] See, for example, EPA's final rule on ''National Ambient Air Quality Standards for Lead,'' 73 FR 66964, 67034 (November 12, 2008).

[8] The citations reference the most recent EPA approval of the stated rule or of revisions to the rule.

October 2, 2019) ; No. 11 Petroleum Liquids Marketing and Storage (85 FR 54924; September 3, 2020); No. 27 Control of Nitrogen Oxide Emissions (85 FR 54924; September 3, 2020); No. 37 Rhode Island's Low Emissions Vehicle Program (80 FR 50203; August 19, 2015); and No. 45 Rhode Island Diesel Engine Anti-Idling Program (73 FR 16203; March 27, 2008).

EPA proposes that Rhode Island meets the infrastructure requirements of section 110(a)(2)(A) for the 2015 ozone NAAQS.

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze ambient air quality data, and to make these data available to EPA upon request. Each year, states submit annual air monitoring network plans to EPA for review and approval. EPA's review of these annual monitoring plans includes our evaluation of whether the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

Section VI of the 1972 RI SIP specifies requirements for operation of the Air Quality monitoring network that RI DEM operates. EPA approved the state's 2020 Annual Air Monitoring Network Plan and 5-Year Network Assessment on August 4, 2020.[9] Furthermore, RI DEM populates AQS with air quality monitoring data in a timely manner and provides EPA with prior notification when considering a change to its monitoring network or plan. EPA proposes that Rhode Island meets the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2015 ozone NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

States are required to include a program providing for enforcement of all SIP measures and for the regulation of construction of new or modified stationary sources to meet new source review (NSR) requirements under prevention of significant deterioration (PSD) and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers the following: (i) Enforcement of SIP measures; (ii) PSD program for major sources and major modifications; and (iii) a permit program for minor sources and minor modifications.

Sub-Element 1: Enforcement of SIP Measures

Rhode Island's authority for enforcing SIP measures is established in RIGL section 23–23–5, which grants the Director of RI DEM general enforcement power, inspection and investigative authority, and the power to issue administrative orders, among other things. RIGL section 23–23–5 was approved by EPA on April 20, 2016 (81 FR 23175). In addition, RI APCR No. 9, ''Air Pollution Control Permits,'' sets forth requirements for new and modified major and minor stationary sources. APCR No. 9 includes, among other sections, sections that contain specific requirements for new and modified minor sources, specific new source review requirements applicable to major stationary sources or major modifications located in nonattainment areas, and specific new source review requirements applicable to major stationary sources or major modifications located in attainment or unclassifiable areas.

RSA Chapter 125–C:15, Enforcement, authorizes RI DEM to issue a notice of violation or an order of abatement, including a schedule for compliance, upon finding that a violation of Chapter 125–C, Air Pollution Control, has occurred. Additionally, RSA 125–C:15 I–b, II, III, and IV provide for penalties for violations of Chapter 125–C.

EPA proposes that Rhode Island meets the enforcement of SIP measure requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

Sub-Element 2: PSD Program for Major Sources and Major Modifications

Prevention of significant deterioration (PSD) applies to new major sources or modifications made to major sources for pollutants where the area in which the source is located is in attainment of, or is unclassifiable with regard to, the relevant NAAQS. EPA interprets the CAA as requiring each state to make an infrastructure SIP submission for a new or revised NAAQS demonstrating that the air agency has a complete PSD permitting program in place satisfying the current requirements for all regulated NSR pollutants.

The State of Rhode Island's PSD permitting program is established in Title 250—Rhode Island Department of Environmental Management, Chapter 120—Air Resources, Subchapter 05—Air Pollution Control, Part 9—Air Pollution Control Permits (Part 9) and contains provisions that address applicable requirements for all regulated NSR pollutants, including Greenhouse Gases (GHGs). Revisions to the PSD program were last approved into the Rhode Island SIP on October 2, 2019 (84 FR 52364).

In determining whether a state has a comprehensive PSD permit program, EPA reviews the SIP to ensure that the air agency has a PSD permitting program meeting the current requirements for all regulated NSR pollutants, including the following EPA rules: ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as they Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (the ''2008 NSR Rule''), 73 FR 28321 (May 16, 2008); and ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (the ''2010 NSR Rule''), 75 FR 64864 (October 20, 2010).

EPA has previously determined that Rhode Island has a PSD permitting program meeting the requirements of these three rules. In our proposal on February 29, 2016, regarding Rhode Island's infrastructure SIP submittals for the 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 lead (Pb), 2008 ozone, 2010 nitrogen dioxide (NO_2), and 2010 sulfur dioxide (SO_2) standards, we explained how the state's infrastructure SIPs met the requirements of the 2008 NSR Rule and most of the requirements of the Phase 2 Rule. See proposed rule at 81 FR 10168 and final rule at 81 FR 23175 (April 20, 2016).

In our proposal on July 24, 2019, approving a subsequent Rhode Island submittal of revisions to its PSD permit program regulations, we explained how Rhode Island satisfied the requirements of the 2010 NSR Rule and the remaining requirements of the Phase 2 Rule. See proposed rule at 84 FR 35582 (July 24,

[9] EPA's approval letter is included in the docket for this action.

2019) and final rule at 84 FR 52364 (October 2, 2019).

Based on our rationale contained in the February 2016 and July 2019 notices collectively explaining how Rhode Island's PSD permitting program satisfies the requirements the Phase 2 Rule, the 2008 NSR Rule, and the 2010 NSR Rule, we propose to approve Rhode Island's September 2020 infrastructure SIP submittal for this PSD sub-element of section 110(a)(2)(C) for the 2015 ozone NAAQS.

Sub-Element 3: Preconstruction Permitting for Minor Sources and Minor Modifications

To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulate emissions of the relevant NAAQS pollutants.

EPA last approved revisions to Rhode Island's minor NSR program (APCR No. 9) on October 2, 2019 (84 FR 5234). Rhode Island and EPA rely on the state's minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS, including the 2015 ozone standard. Therefore, we propose that Rhode Island meets this sub-element requirement for a SIP-approved minor NSR permit program for the 2015 ozone NAAQS.

D. Section 110(a)(2)(D)—Interstate Transport

One of the structural requirements of section 110(a)(2) is section 110(a)(2)(D), also known as the ''good neighbor'' provision, which generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on neighboring states and countries due to the transport of air pollution.

In particular, section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. EPA commonly refers to these requirements of section 110(a)(2)(D) as Prong 1 (significant contribution to nonattainment) and Prong 2 (interference with maintenance). A state's SIP submission for Prongs 1 and 2 is also referred to as a state's ''Transport SIP.'' Section 110(a)(2)(D)(i)(II) requires SIPs to contain adequate provisions to prohibit emissions that will interfere with measures included in the applicable implementation plan for any other state under part C of the Act to prevent significant deterioration of air quality and to protect visibility. EPA commonly refers to these requirements as Prong 3 (Prevention of Significant Deterioration or PSD) and Prong 4 (Visibility Protection).

In today's action, EPA is not evaluating Rhode Island's Transport SIP (*i.e.,* Prongs 1 and 2; combined as (D)1 in Table 1 below) or Prong 4 ((D)3 in Table 1). EPA will address Rhode Island's Transport SIP and Prong 4 for the 2015 ozone NAAQS in separate actions. Today's action, however, does address Prong 3 (PSD) as well as section 110(a)(2)(D)(ii) of the Act, which requires SIPs to contain provisions to ensure compliance with sections 126 and 115 of the Act relating to interstate and international pollution abatement, respectively.

Section 110(a)(2)(D)(i)(II)—PSD (Prong 3)

To prevent significant deterioration of air quality, this sub-element requires SIPs to include provisions that prohibit any source or other type of emissions activity in one state from interfering with measures that are required in any other state's SIP under Part C of the CAA. As explained in the 2013 memorandum,[10] a state may meet this requirement with respect to in-state sources and pollutants that are subject to PSD permitting through a comprehensive PSD permitting program that applies to all regulated NSR pollutants and that satisfies the requirements of EPA's PSD implementation rules. Rhode Island has a comprehensive PSD permitting program in place that satisfies requirements for all regulated NSR pollutants, as explained above in section 110(a)(2)(C).

For in-state sources not subject to PSD, this requirement can be satisfied through an approved nonattainment new source review (NNSR) program with respect to any previous NAAQS. EPA approved Rhode Island's latest NNSR regulation (APCR No. 9) on October 2, 2019 (84 FR 52364). This regulation contains provisions for how the state must treat and control sources in nonattainment areas consistent with 40 CFR 51.165, or appendix S to 40 CFR 51.

[10] Included in the docket for today's action.

Therefore, EPA is proposing that Rhode Island meets the applicable infrastructure SIP requirements of section 110(a)(2)(D)(i)(II) related to PSD (Prong 3) for the 2015 ozone NAAQS.

Section 110(a)(2)(D)(ii)—Interstate Pollution Abatement

This sub-element requires that each SIP contain provisions requiring compliance with requirements of CAA section 126 relating to interstate pollution abatement. Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources.

EPA last approved revisions to Rhode Island's PSD program on October 2, 2019 (84 FR 52364). This program includes a provision requiring Rhode Island to notify neighboring states of RI DEM's intention to issue a draft PSD permit or to deny a permit application. *See* APCR No. 9, section 9.16(C)(5).

These public-notice requirements are consistent with the Federal SIP-approved PSD program's public-notice requirements for affected states under 40 CFR 51.166(q). Therefore, we propose to approve Rhode Island's compliance with the infrastructure SIP requirements of CAA section 126(a) for the 2015 ozone NAAQS. Rhode Island has no obligations under any other provision of CAA section 126, and no source or sources within the state are the subject of an active finding under section 126 with respect to the 2015 ozone NAAQS.

Section 110(a)(2)(D)(ii)—International Pollution Abatement

This sub-element also requires each SIP to contain provisions requiring compliance with the applicable requirements of CAA section 115 relating to international pollution abatement. Section 115 authorizes the Administrator to require a state to revise its SIP to alleviate international transport into another country where the Administrator has made a finding with respect to emissions of a NAAQS pollutant and its precursors, if applicable. There are no final findings under section 115 against Rhode Island with respect to the 2015 ozone NAAQS. Therefore, EPA is proposing that Rhode Island meets the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to CAA section 115 for the 2015 ozone NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources

Section 110(a)(2)(E)(i) requires each SIP to provide assurances that the state will have adequate personnel, funding, and legal authority under state law to carry out its SIP. In addition, section 110(a)(2)(E)(ii) requires each state to comply with the requirements for state boards in CAA section 128. Finally, section 110(a)(2)(E)(iii) requires that, where a state relies upon local or regional governments or agencies for the implementation of its SIP provisions, the state retain responsibility for ensuring implementation of SIP obligations with respect to relevant NAAQS. Section 110(a)(2)(E)(iii), however, does not apply to this action because Rhode Island does not rely upon local or regional governments or agencies for the implementation of its SIP provisions.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

Rhode Island's infrastructure SIP submittal for the 2015 ozone NAAQS states that its air agency has authority and resources to carry out its SIP obligations. Rhode Island cites RIGL Section 23–23–5, which provides the RI DEM with the legal authority to enforce air pollution control requirements. Additionally, this statute provides the DEM with the authority to assess preconstruction permit fees and annual operating permit fees from air emissions sources and establishes a general revenue reserve account within the general fund to finance the state clean air programs. EPA approved RIGL section 23–23–5 into the Rhode Island SIP on April 20, 2016 (81 FR 23175).

Rhode Island's Office of Air Resources (RIOAR) has had a staff of 25 for fiscal years (FYs) 2019 through 2021. During this period, its budget has increased from about $2.9 million to $3.0 million. OAR's air laboratory is housed in the Department of Health (RIDOH) and, from FY 2019 through 2021, has had a staff of 7 and budget of just under $1 million.[11] RI DEM staff and operations are funded by the State and through EPA grants, including annual funding through CAA sections 103 and 105 to assist with the costs of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. Rhode Island also has an EPA-approved fee program (APCR No. 28, Operating Permit Fees), which is used to support CAA title V program elements such as permitting, monitoring, testing, inspections, and enforcement. Furthermore, as noted above, RI DEM's budget has been consistent over the past number of years and over these years Rhode Island has been able to meet its statutory commitments under the Act. Based upon Rhode Island's submittal and the additional budget information, EPA proposes that Rhode Island meets the infrastructure SIP requirements of this sub-element of section 110(a)(2)(E) for the 2015 ozone NAAQS.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E)(ii) requires each SIP to contain provisions that comply with the state board requirements of section 128(a) of the CAA. That provision contains two explicit requirements: (1) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (2) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. Section 128 further provides that a state may adopt more stringent conflicts of interest requirements and requires EPA to approve any such requirements submitted as part of a SIP.

In Rhode Island, no board or body approves permits or enforcement orders; these are approved by the Director of RI DEM. Thus, with respect to this sub-element, Rhode Island is subject only to the requirements of paragraph (a)(2) of section 128 of the CAA (regarding conflicts of interest).

On April 20, 2016, EPA approved Rhode Island Code of Ethics, RIGL sections 36–14–1 through 36–14–7 (81 FR 23175). These sections apply to state employees and public officials and requires disclosure of potential conflicts of interest and provides that ''No person subject to this Code of Ethics shall have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties or employment in the public interest and of his or her responsibilities.''

EPA proposes that Rhode Island meets the infrastructure SIP requirements of section 110(a)(2)(E)(ii) for the 2015 ozone NAAQS.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

Rhode Island's infrastructure submittal references existing state regulations previously approved by EPA that require sources to monitor emissions and submit reports and that provide for the correlation of emissions data with emission limitations and for the public availability of emission data. For example, Rhode Island's submittal references RIGL § 23–23–5(16), which authorizes RI DEM to require a source to install, maintain, and use air pollution emission monitoring devices and to submit periodic reports on the nature and amounts of emissions. In addition, under RIGL § 23–23–13 and the Rhode Island public records act, *see* RIGL Title 38, emissions data are made available to the public and are not protected as ''trade secret or proprietary information.'' With respect to state regulations, APCR No. 9, ''Air Pollution Control Permits,'' requires emissions testing of permitted processes within 180 days of full operation and specifies that preconstruction permits issued contain an emissions testing section. In addition, APCR No. 6, ''Continuous Emission Monitors,'' requires certain sources to install, calibrate, operate, and maintain a continuous emission monitoring system and to report certain emissions-related data to RI DEM. APCR No. 27, ''Control of Nitrogen Oxide Emissions,'' listed in Element A, also requires annual emissions testing of subject sources and includes specifications for continuous emissions monitors. Finally, APCR No. 14, ''Record Keeping and Reporting,'' requires emission sources to report emissions and other data to RI DEM annually, and provides that information

[11] Budget spreadsheet provided to EPA from Rhode Island is included in the docket for this action.

in certain reports obtained pursuant to APCR No. 14 ''will be correlated with applicable emission and other limitations and will be available for public inspection.''

Consequently, EPA proposes to approve Rhode Island's SIP as providing for public availability of emission data and as well as authority to release emission data to the public. Therefore, EPA proposes that Rhode Island has met the infrastructure SIP requirements of section 110(a)(2)(F) for the 2015 ozone NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for state authority comparable to that provided to the EPA Administrator in section 303 of the CAA, and adequate contingency plans to implement such authority. Section 303 of the CAA provides authority to the EPA Administrator to seek a court order to restrain any source from causing or contributing to emissions that present an ''imminent and substantial endangerment to public health or welfare, or the environment.'' Section 303 further authorizes the Administrator to issue ''such orders as may be necessary to protect public health or welfare or the environment'' in the event that ''it is not practicable to assure prompt protection . . . by commencement of such civil action.''

We propose to find that a combination of state statutes and regulations discussed in the Rhode Island's September 2020 infrastructure submittal provides for authority comparable to that given the Administrator in CAA section 303. The statutes and regulations are: RIGL §§ 10–20, 23–23–16, 23–23.1–5, 23–23.1–7, 23–23.1–8, 42–17.1–2, and APCR No. 7. In our proposal to approve this requirement for Rhode Island's infrastructure SIP submissions for the 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 lead, 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS, we explained how this combination of authorities provides Rhode Island with authority comparable to that in CAA § 303. *See* 81 FR 10168, 10177 (February 29, 2016). These statutes and the regulation apply in the same manner to ozone precursor emissions as they do to emissions of the other NAAQS pollutants. Accordingly, for the reasons contained in our proposal to approve this element for the 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 lead, 2008 ozone, 2010 NO_2, and 2010 SO_2 infrastructure SIPs, we propose to find that this combination of state statutes and regulations provide for authority comparable to that in CAA § 303 for the 2015 ozone infrastructure SIP.

Section 110(a)(2)(G) also requires that, for any NAAQS, Rhode Island have an approved contingency plan (also known as an emergency episode plan) for any Air Quality Control Region (AQCR) within the state that is classified as Priority I, IA, or II. See 40 CFR 51.152(c). In general, contingency plans for Priority I, IA, and II areas must meet the applicable requirements of 40 CFR part 51, subpart H (40 CFR 51.150 through 51.153) (''Prevention of Air Pollution Emergency Episodes'') for the relevant NAAQS. A contingency plan is not required if the entire state is classified as Priority III for a particular pollutant. *Id.* There is only one AQCR in Rhode Island—the Metropolitan Providence Interstate AQCR—and Rhode Island's portion thereof is classified as a Priority I area for ozone. *See* 40 CFR 52.2071. Consequently, as relevant to this proposed rulemaking action, Rhode Island's SIP must contain a contingency plan meeting the specific requirements of 40 CFR 51.151 and 51.152 with respect to ozone. Rhode Island's submittals cite APCR No. 10, ''Air Pollution Episodes,'' which specifies episode criteria for, and measures to be implemented during, air pollution alerts, warnings and emergencies to prevent ambient pollution concentrations from reaching significant harm levels and is very closely modeled on EPA's example regulations for contingency plans at 40 CFR part 51, appendix L.

As stated in Rhode Island's infrastructure SIP submittals under the discussion of public notification (Element J), Rhode Island also posts near real-time air quality data, air quality predictions and a record of historical data on the RI DEM website. Alerts are sent by email to many affected parties, including emissions sources, concerned individuals, schools, health and environmental agencies and the media. Alerts include information about the health implications of elevated pollutant levels and list actions that reduce emissions.

In addition, daily forecasted ozone and fine particle levels are also made available on the internet through the EPA AirNow and EnviroFlash systems. Information regarding these two systems is available on EPA's website at *www.airnow.gov.* Notices are sent out to EnviroFlash participants when levels are forecast to exceed the current 8-hour ozone (or 24-hour $PM_{2.5}$) standard.

These Rhode Island statutes, rules and regulations are consistent with the requirements of 40 CFR part 51, subpart H, section 51.150 through 51.153. EPA proposes that Rhode Island meets the applicable infrastructure SIP requirements for section 110(a)(2)(G), including contingency plan requirements, for the 2015 ozone NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires that a state's SIP provide for revision from time to time as may be necessary to take account of changes in the NAAQS or availability of improved methods for attaining the NAAQS and whenever EPA finds that the SIP is substantially inadequate.

In 1973, it was determined that Rhode Island's original SIP did not fully satisfy section 110(a)(2)(H), and EPA promulgated federal regulations to address the gap in the SIP. *See* 40 CFR 52.2080. Since Rhode Island's September 23, 2020, submittal likewise does not address the gap in the SIP that led to a disapproval in 1973, EPA proposes to find that Rhode Island has not met applicable infrastructure SIP requirements for element H with respect to the 2015 ozone NAAQS. Accordingly, EPA proposes to disapprove this portion of the state's submittal. No further action by EPA or the state is required, however, because remedying federal regulations are already in place. Moreover, mandatory sanctions under CAA section 179 do not apply because the submittal is not required under CAA title I part D nor in response to a SIP call under CAA section 110(k)(5).

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

Section 110(a)(2)(I) provides that each plan or plan revision for an area designated as a nonattainment area shall meet the applicable requirements of part D of the CAA. EPA interprets section 110(a)(2)(I) to be inapplicable to the infrastructure SIP process because specific SIP submissions for designated nonattainment areas, as required under part D, are subject to a different submission schedule under subparts 2 through 5 of part D, extending as far as 10 years following area designations for some elements, whereas infrastructure SIP submissions are due within three years after adoption or revision of a NAAQS. Accordingly, EPA takes action on part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; Prevention of Significant Deterioration; Visibility Protection

Section 110(a)(2)(J) of the CAA requires that each SIP ''meet the applicable requirements of section 121 of this title (relating to consultation),

section 127 of this title (relating to public notification), and part C of this subchapter (relating to PSD of air quality and visibility protection).'' The evaluation of the submission from Rhode Island with respect to these requirements is described below.

Sub-Element 1: Consultation With Government Officials

Pursuant to CAA section 121, a state must provide a satisfactory process for consultation with local governments and Federal Land Managers (FLMs) in carrying out its NAAQS implementation requirements. RIGL section 23–23–5, which was approved by EPA on April 20, 2016 (81 FR 23175), authorizes the RI DEM Director ''[t]o advise, consult, and cooperate with the cities and towns and other agencies of the state, federal government, and other states and interstate agencies, and with effective groups in industries in furthering the purposes of this chapter.'' In addition, APCR No. 9, Air Pollution Control Permits, which was approved into the Rhode Island SIP on October 24, 2013 (78 FR 63383), with the latest revisions approved on October 2, 2019 (84 FR 52366), directs RI DEM to notify relevant municipal officials and FLMs, among others, of tentative determinations by RI DEM with respect to permit applications for major stationary sources and major modifications. EPA proposes that Rhode Island meets the infrastructure SIP requirements of this portion of section 110(a)(2)(J) for the 2015 ozone NAAQS.

Sub-Element 2: Public Notification

Pursuant to CAA section 127, states must notify the public if NAAQS are exceeded in an area, advise the public of health hazards associated with exceedances, and enhance public awareness of measures that can be taken to prevent exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality.

Rhode Island's APCR No. 10, Air Pollution Episodes, specifies criteria for, and measures to be implemented during, air pollution alerts, warnings and episodes. The RI DEM website includes near real-time air quality data, air quality predictions, and a record of historical data. Alerts are sent by email to many affected parties—emissions sources, concerned individuals, schools, health and environmental agencies and the media—and include information about the health implications of elevated pollutant levels and list actions that reduce emissions. In addition, Air Quality Data Summaries of the year's air quality monitoring results are issued annually. The summaries are sent to a mailing list of interested parties and posted on the RI DEM website. Rhode Island is also an active partner in EPA's AirNow and EnviroFlash air quality alert programs.

EPA proposes that Rhode Island meets the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2015 ozone NAAQS.

Sub-Element 3: PSD

EPA discussed Rhode Island's PSD program in the context of infrastructure SIPs in the above paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II) and determined that the state satisfies the requirements of EPA's PSD implementation rules. Thus, EPA proposes that Rhode Island meets the infrastructure SIP requirements of this portion of section 110(a)(2)(J) for the 2015 ozone NAAQS.

Sub-Element 4: Visibility Protection

States are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, as noted in EPA's 2013 memorandum, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2015 ozone NAAQS. Therefore, we are not proposing action on this sub-element.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

Section 110(a)(2)(K) of the Act requires that a SIP provide for the performance of such air quality modeling as the EPA Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which EPA has established a NAAQS, and the submission, upon request, of data related to such air quality modeling. EPA has published modeling guidelines at 40 CFR part 51, appendix W, for predicting the effects of emissions of criteria pollutants on ambient air quality. EPA also recommends in the 2013 memorandum that, to meet section 110(a)(2)(K), a state submit or reference the statutory or regulatory provisions that provide the air agency with the authority to conduct such air quality modeling and to provide such modeling data to EPA upon request.

Rhode Island reviews the potential impact of major sources consistent with 40 CFR part 51, appendix W, ''Guideline on Air Quality Models'' (EPA Guideline). Rhode Island APCR No. 9, ''Air Pollution Control Permits,'' requires permit applicants to submit air-quality modeling based on applicable air quality models, data bases, and other requirements specified in the EPA Guideline to demonstrate impacts of new and modified major sources on ambient air quality. Rhode Island APCR No. 9 also specifies that the EPA must receive notice of the public-comment period that is mandated before a major source permit is issued. Modeling data are sent to EPA along with the draft major permit. The state also collaborates with the Ozone Transport Commission (OTC), and the Mid-Atlantic Regional Air Management Association (MARAMA) and EPA in performing any necessary large-scale urban airshed modeling for ozone (and PM).

EPA proposes that Rhode Island meets the requirements of section 110(a)(2)(K) for the 2015 ozone NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate that each major stationary source pay permitting fees to cover the costs of reviewing, approving, implementing, and enforcing a permit.

Section 23–23–5 of the RIGL, which was approved by EPA on April 20, 2016 (81 FR 23175), provides for the assessment of operating permit fees and preconstruction permit fees for air emissions sources. In addition, RI DEM's ''Rules and Regulations Governing the Establishment of Various Fees'' sets forth permit fee requirements for air emissions sources and the legal authority to collect those fees. These rules and regulations are promulgated pursuant to RIGL Chapter 23–23, Rhode Island's ''Clean Air Act,'' and Chapter 42–35, Administrative Procedures.

Rhode Island's infrastructure SIP submittals also refer to its regulations implementing its operating permit program pursuant to 40 CFR part 70. Rhode Island's Title V permitting program, APCR No. 28, Operating Permit Fees, requires major sources to pay annual operating permit fees. EPA's approval of Rhode Island's title V program (APCR No. 28) became effective on November 30, 2001. *See* 66 FR 49839 (Oct. 1, 2001). To gain this approval, Rhode Island demonstrated the ability to collect sufficient fees to run the program. The fees collected from title V sources are above the presumptive minimum in accordance with 40 CFR 70.9(b)(2)(i).

EPA proposes that Rhode Island meets the infrastructure SIP requirements of section 110(a)(2)(L) for the 2015 ozone NAAQS.

M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities

To satisfy Element M, states must provide for consultation with, and participation by, local political subdivisions affected by the SIP. Rhode Island's infrastructure submittal references RIGL § 23–23–5, which was approved by EPA on April 20, 2016 (81 FR 23175). This state law provides for consultation with affected local political subdivisions and authorizes the RI DEM Director ''to advise, consult, and cooperate with the cities and towns and other agencies of the state . . . and other states and interstate agencies . . . in furthering the purposes of'' the state's ''Clean Air Act'' (*i.e.,* RIGL chapter 23–23).

EPA proposes that Rhode Island meets the infrastructure SIP requirements of section 110(a)(2)(M) for the 2015 ozone NAAQS.

III. Proposed Action

EPA is proposing to approve most of the elements of the infrastructure SIP submitted by Rhode Island on September 23, 2020, for the 2015 ozone NAAQS. Today's action does not include the ''good neighbor'' provisions (*i.e.,* section 110(a)(2)(D)(i)), also known as a state's Transport SIP, nor does it include section 110(a)(2)(D)(i)(II) as it relates to visibility protection (Prong 4). Rhode Island's Transport SIP and Prong 4 for the 2015 ozone NAAQS will be addressed in future actions.

EPA's proposed action regarding each infrastructure SIP requirement for the 2015 ozone NAAQS is contained in Table 1 below.

TABLE 1—PROPOSED ACTION ON RHODE ISLAND'S INFRASTRUCTURE SIP SUBMITTAL FOR THE 2015 OZONE NAAQS

Element	2015 ozone NAAQS
(A): Emission limits and other control measures	A.
(B): Ambient air quality monitoring and data system	A.
(C)1: Enforcement of SIP measures	A.
(C)2: PSD program for major sources and major modifications	A.
(C)3: Program for minor sources and minor modifications	A.
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS	No action.
(D)2: PSD	A.
(D)3: Visibility Protection	No action.
(D)4: Interstate Pollution Abatement	A.
(D)5: International Pollution Abatement	A.
(E)1: Adequate resources	A.
(E)2: State boards	A.
(E)3: Necessary assurances with respect to local agencies	NA.
(F): Stationary source monitoring system	A.
(G): Emergency power	A.
(H): Future SIP revisions	D
(I): Nonattainment area plan or plan revisions under part D	+.
(J)1: Consultation with government officials	A.
(J)2: Public notification	A.
(J)3: PSD	A.
(J)4: Visibility protection	+.
(K): Air quality modeling and data	A.
(L): Permitting fees	A.
(M): Consultation and participation by affected local entities	A.

In the above table, the key is as follows:

A	Approve.
+	Not germane to infrastructure SIPs.
No action	EPA is taking no action on this infrastructure requirement.
NA	Not applicable.
D	Disapprove, but no further action required because federal regulations already in place.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

Dated: August 11, 2021.

Deborah Szaro,

Acting Regional Administrator, EPA Region 1.

[FR Doc. 2021–17544 Filed 8–16–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0385; FRL–8826–01–R5]

Air Plan Approval; Michigan; Sulfur Dioxide Clean Data Determination for St. Clair

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to make a determination that the St. Clair sulfur dioxide (SO_2) nonattainment area has attained the 2010 primary SO_2 National Ambient Air Quality Standard (2010 SO_2 NAAQS). If finalized, this determination would suspend certain requirements for the nonattainment area for as long as the area continues to attain the 2010 SO_2 NAAQS.

DATES: Comments must be received on or before September 16, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0385 at *http://www.regulations.gov,* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5954 *portanova.mary@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

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

I. Background

The St. Clair area was designated nonattainment for the 2010 SO_2 NAAQS on July 12, 2016 (81 FR 45039), based on air quality modeling showing violations of the standard. The two SO_2-emitting facilities in the St. Clair area are DTE Energy-Belle River (Belle River plant) and DTE Energy-St. Clair (St. Clair plant), which are both coal-fired power plants. The nonattainment area consists of a portion of southeastern St. Clair County, Michigan, located northeast of Detroit. The nonattainment area shares a border with Ontario, Canada along the St. Clair River. (See the area's complete boundary description at 40 CFR 81.323).

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) was required to prepare a nonattainment State Implementation Plan (NA SIP) by March 12, 2018 to bring the St. Clair area into attainment by the attainment date of September 12, 2021, but EGLE did not submit a complete NA SIP for the St. Clair area by the March 12, 2018 deadline. On September 20, 2019 (84 FR 49462), EPA issued a finding of failure to submit (FFS) a SIP required for attainment of the 2010 SO_2 NAAQS.

EGLE has informed EPA that DTE intends to close the St. Clair plant in 2022, and use a new natural gas power plant, already under construction, to generate electric power in its place. This plant closure and replacement is expected to result in a large SO_2 emission reduction for the area, but the expected SO_2 reductions would not occur in time to be a timely element of the required 2018 NA SIP for the St. Clair area. Nevertheless, the September 20, 2019 FFS resulted in the initiation of an 18-month clock toward imposition of sanctions for the state under CAA section 179, unless an approvable SO_2 SIP is submitted and deemed complete by EPA. (See 40 CFR 52.31(d)(5)). In addition, the FFS started a two-year clock by which EPA is required under CAA section 110(c) to promulgate a Federal Implementation Plan (FIP) for the area, unless the state submits and

EPA approves a SIP for the area before that date.

In the meantime, EGLE obtained air quality monitoring data in the St. Clair area which had not been available before the St. Clair area was designated nonattainment. On July 24, 2020, EGLE submitted a request that EPA make a determination under the Clean Air Act (CAA) and EPA's Clean Data Policy, based on both local monitored air quality data and a new dispersion modeling analysis, that the St. Clair nonattainment area has attained the 2010 SO_2 NAAQS (Clean Data Determination). Approval of EGLE's request would suspend the requirement for the state to submit certain planning elements otherwise required under CAA section 172(c) for a NA SIP for the St. Clair area, and suspend the sanctions and FIP clocks, for so long as the area continues to attain the 2010 SO_2 NAAQS. EGLE would still be required to submit an emissions inventory (EI) required by CAA section 172(c)(3) and a nonattainment new source review (NNSR) program required by CAA section 172(c)(5), in order to avoid sanctions. EGLE submitted the St. Clair area's EI and NNSR verification to EPA on June 30, 2021.

II. Clean Data Determinations

Following enactment of the CAA Amendments of 1990, EPA discussed its interpretation of the requirements for implementing the NAAQS in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (General Preamble), 57 FR 13498, 13564 (April 16, 1992). In 1995, based on the interpretation of CAA sections 171, 172, and 182 in the General Preamble, EPA set forth what has become known as its ''Clean Data Policy'' for the 1-hour ozone NAAQS. Under the Clean Data Policy, for a nonattainment area that can demonstrate attainment of the standard before implementing CAA nonattainment measures, EPA interprets the requirements of the CAA that are specifically designed to help an area achieve attainment, such as attainment demonstrations, implementation of reasonably available control measures, including reasonably available control technology (RACM/RACT), reasonable further progress (RFP) demonstrations, emissions limitations and control measures as necessary to provide for attainment, and contingency measures, to be suspended for so long as air quality continues to meet the standard. See the May 10, 1995 memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled, ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment areas Meeting the Ozone National Ambient Air Quality Standard.'' In an April 23, 2014 memorandum from Steve Page, Director of the EPA's Office of Air Quality Planning and Standards, to the EPA Air Division Directors entitled, ''Guidance for 1-hr SO_2 Nonattainment Area SIP Submissions'' (2014 SO_2 Nonattainment Area Guidance), EPA provides guidance and a rationale for the application of the Clean Data Policy to the 2010 1-hour primary SO_2 NAAQS.

A state may notify EPA that it believes a nonattainment area is attaining the 2010 SO_2 NAAQS and request a clean data determination under EPA's Clean Data Policy. EPA will determine whether the area has attained the 2010 SO_2 NAAQS based on available information, including available air quality monitoring data and air quality dispersion modeling information for the affected area. If the determination of attainment is granted, then requirements for the area such as a nonattainment SIP submittal or reasonable further progress measures are suspended for so long as the area continues to attain the NAAQS. Provided the area has submitted a complete EI and NNSR program, sanctions for failing to timely submit a SIP are also suspended for so long as the area remains in attainment.

However, the suspension of the obligations to submit attainment planning related SIPs is only appropriate where the area remains in attainment of the NAAQS. EPA is proposing to require EGLE to submit annual statements by July 1 to EPA, to address whether the St Clair area has continued to attain the 2010 SO_2 NAAQS. EPA expects that these statements could include such information as available air quality monitoring data or an assessment of changes in facility emissions or operations and whether these changes warrant updated modeling. If EPA does not receive credible information indicating that the area continues to attain the SO_2 NAAQS, EPA will propose to rescind the St. Clair area's clean data determination, the finalization of which would lift the suspension of its attainment planning requirements and would reinstate the sanctions and FIP clocks with their original deadlines.

The determination of attainment under the Clean Data Policy does not serve to alter the area's nonattainment designation. Clean data determinations are not redesignations to attainment. For EPA to redesignate an area to attainment, the area must meet the requirements of CAA section 107(d)(3) and demonstrate maintenance as required by CAA section 175A.

III. Analysis of EGLE's Request

EGLE's July 24, 2020 request for a clean data determination included local monitoring data and a dispersion modeling analysis for the St. Clair nonattainment area. The 2014 SO_2 Nonattainment Area Guidance states that when air agencies provide monitoring and/or modeling to support clean data determinations, the monitoring data provided by the state should follow EPA's ''SO_2 NAAQS Designations Source-Oriented Monitoring Technical Assistance Document'' (SO_2 Monitoring TAD) and the modeling provided by the state should follow EPA's ''SO_2 NAAQS Designations Modeling Technical Assistance Document'' (SO_2 Modeling TAD).

The Monitoring TAD was provided by EPA to assist states in siting monitors to characterize ambient air quality impacted by significant SO_2 sources, with the goal to identify peak SO_2 concentrations attributable to those sources. Collaboration with other stakeholders such as affected industry was encouraged in the Monitoring TAD. The Monitoring TAD suggests that existing industry monitoring operations could be found to meet the necessary requirements to produce data of appropriate quality for comparison to the NAAQS. Industrial monitors should be appropriately sited and operated in a manner largely equivalent to those monitors operated elsewhere in the State and Local Air Monitoring Stations (SLAMS) network, meeting applicable criteria in 40 CFR part 58, appendices A, C, and E and reporting their data to the Air Quality Subsystem (AQS).

EGLE's July 24, 2020 submittal included three years of monitoring data from two industrial monitors located in the St. Clair nonattainment area, near the power plants. DTE installed the two SO_2 monitors in the St. Clair nonattainment area in 2016 to evaluate SO_2 impacts from the two facilities. The monitors were sited using dispersion modeling to help identify the locations of predicted maximum SO_2 concentrations. Considering the monitor siting guidance in the Monitoring TAD, EPA believes that these monitors' locations adequately represent the locations of potential maximum SO_2 impacts from the two power plants. One monitor, known as the Remer monitor, is sited near the St. Clair River, between and slightly north of the two power plants, about one kilometer (km) from each plant. Previously modeled

maximum SO_2 concentrations have been predicted at or near this location. The other monitor, known as the Mills monitor, is sited 3 km west of the Belle River plant, so that it can capture the worst-case combined impacts when winds are blowing from the St. Clair plant toward the Belle River plant.

EPA reviewed the ambient air monitoring data for the 2017–2019 period, which were the three most recent full calendar years of data available. Ambient and quality assurance data for these two monitoring sites are recorded in EPA's AQS database. EGLE and EPA have reviewed the data and have determined that this data meets completeness and data quality indicators confirm that the data is suitable to be used in support of a clean data determination for the St. Clair area.

The data cited by EGLE in its request show attainment of the 2010 SO_2 NAAQS at both monitors for the 2017–2019 time period, with three-year average 99th percentile daily maximum 1-hour concentrations (design values) of 54 and 45 parts per billion (ppb), which are below the 2010 SO_2 NAAQS of 75 ppb. Data for 2020 indicate that the monitors have continued to show attainment. Table 1 shows the 2017–2020 SO_2 monitoring results for the St. Clair area monitors.

TABLE 1—2017–2020 MONITORED SO_2 VALUES IN THE ST. CLAIR AREA

Monitor	Annual 99th percentile (ppb)				2017–2019 design value (ppb)	2018–2020 design value (ppb)
	2017	2018	2019	2020		
Mills Monitor	46	50	40	29	45	40
Remer Monitor	51	65	45	25	54	45

EPA also reviewed the dispersion modeling analysis for the St. Clair area which EGLE submitted on July 24, 2020. The SO_2 Modeling TAD outlines modeling approaches for SO_2 NAAQS attainment status designations and states that, for the purposes of modeling to characterize air quality for use in SO_2 designations, EPA recommends using a minimum of the most recent three years of actual emissions data and concurrent meteorological data to allow the modeling to simulate what a monitor would observe.

EGLE's analysis followed the Modeling TAD and modeled the impacts of the Belle River and St. Clair plants in the St. Clair nonattainment area. EGLE used the actual 2017–2019 hourly SO_2 emissions for the Belle River and St. Clair plants as measured by continuous emissions monitor (CEM) data. EGLE also characterized the buildings at the two plants using the AERMOD component BPIPPRM, to address building downwash. There were no additional nearby sources that were expected to produce a significant SO_2 concentration gradient in the nonattainment area.

To model the St. Clair nonattainment area, EGLE used EPA's AERMOD model, version 19191, with meteorological data for 2017–2019 from the Oakland County International Airport (Pontiac), located 75 km to the west of the St. Clair plants. This meteorological data set is considered to be representative of the St. Clair area. The area was modeled as rural, based on local land use characteristics. Terrain information was included in the modeling analysis. The nonattainment area is flat and mostly residential or agricultural. The river valley is not deep, although some wind channeling could occur. The geographical and topographical features of the area are not considered to significantly impact air pollution transport. The St. Clair modeling analysis used a nested receptor grid with resolution from 50 meters near the facilities to 100 meters in the central portion, and then 250 meters to the edge of the modeling domain, 10 km from the power plants.

For a background concentration for the modeling analysis, EGLE used monitored SO_2 data from Michigan's SO_2 monitor in Port Huron, located 21 km to the north of the St. Clair plants. The Port Huron monitor has an SO_2 design value of 67 ppb for 2017–2019. EGLE determined its background concentration using a temporally varying approach to characterize background SO_2 emissions, based on the 99th percentile monitored concentrations by season and hour of day. In this analysis, EGLE used data measured when winds were blowing from wind direction sectors which were chosen to avoid double-counting emissions from the St. Clair and Belle River plants and to avoid overestimating impacts from sources which are located in Canada, 3–5 km east of Port Huron but 15–20 km from the St. Clair area. The Modeling TAD provides for this approach. At such distances, the Canadian sources are not expected to provide a significant concentration gradient in the St. Clair area. The modeling analysis' results match well with the monitored values near the St. Clair plants, which suggests that the modeling analysis is not missing significant additional ambient contributions at those locations. Therefore, EPA concurs with the background values EGLE used in its analysis. The background concentrations for the St. Clair modeling analysis were determined to vary from 1.3 to 6.5 ppb, with an average value of 2.4 ppb.

The state's modeling resulted in a three-year maximum predicted 99th percentile daily maximum 1-hour concentration of 64.4 ppb, including background. This design value was predicted at a receptor located very near the St. Clair plant. As the predicted design value is below the 2010 SO_2 NAAQS of 75 ppb, the state's modeling demonstrates attainment of the 2010 SO_2 NAAQS.

EGLE's modeling results for receptors placed at the two SO_2 monitors' locations matched well with the actual monitored design values. The model's predicted design value at the Remer monitor location was 47.7 ppb, compared to the monitored design value of 45 ppb, and the model's predicted design value at the Mills monitor location was 52.7 ppb, compared to the monitored design value of 54 ppb. The location of the maximum modeled 99th percentile concentration was less than half a kilometer from the Remer monitor, which lends support to EPA's expectation that the Remer monitor is located in the area of expected maximum concentrations. Other areas of predicted high concentrations were at approximately the same distance to the northwest and west of the power plants as the Mills monitor, again lending support to EPA's expectation that the Mills monitor location is also representative of areas of high expected concentrations.

After reviewing EGLE's July 24, 2020 submittal, EPA proposes to find that the St. Clair area has attained the 2010 SO_2 NAAQS and satisfies the requirements of the Clean Data Policy.

IV. What action is EPA taking?

EPA is proposing to approve EGLE's request for a Clean Data Determination for the St. Clair nonattainment area in St. Clair County, Michigan. Finalizing this determination would suspend the requirements for EGLE to submit an attainment demonstration and other associated nonattainment planning requirements for so long as the St. Clair nonattainment area continues to attain the 2010 SO_2 NAAQS. This proposed action is consistent with EPA's long-held interpretation of CAA requirements.

Finalizing this action would not constitute a redesignation of the St. Clair area to attainment of the 2010 SO_2 NAAQS under section 107(d)(3) of the CAA. The St. Clair area will remain designated nonattainment for the 2010 SO_2 NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment and takes action to redesignate the area.

V. Statutory and Executive Order Reviews

This action proposes to make a clean data determination for the St. Clair area for the 2010 SO_2 NAAQS based on air quality data which would result in the suspension of certain Federal requirements and does not impose any additional requirements. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: August 9, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2021–17546 Filed 8–16–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R07–OAR–2021–0391; FRL–8693–03–R7]

Air Plan Approval; Missouri Redesignation Request and Associated Maintenance Plan for the Jefferson County 2010 SO_2 1-Hour NAAQS Nonattainment Area; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On June 29, 2021, the Environmental Protection Agency (EPA) proposed a rule titled, ''Air Plan Approval; Missouri Redesignation Request and Associated Maintenance Plan for the Jefferson County 2010 SO_2 1-Hour NAAQS Nonattainment Area.'' In response to stakeholder requests, the EPA is reopening the comment period for this proposed rule.

DATES: The comment period for the proposed rule published on June 29, 2021 (86 FR 34177), is reopened. Written comments must be received on or before September 16, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2021–0391 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7629, or by email at: *keas.ashley@epa.gov.*

SUPPLEMENTARY INFORMATION: On June 29, 2021, the EPA published in the **Federal Register** (86 FR 34177), a notice of proposed rulemaking, proposing to approve the State of Missouri's December 27, 2017, request for the EPA to redesignate the Jefferson County, Missouri, 2010 1-hour sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) nonattainment area to attainment and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the area. The State provided supplemental information on: May 15, 2018; February 7, 2019; February 25, 2019; and April 9, 2021. In response to these submittals, on June 28, 2021, the EPA proposed to take the following actions: Approve the State's plan for maintaining attainment of the 2010 1-hour SO_2 primary standard in the area; and approve the State's request to redesignate the Jefferson County SO_2 nonattainment area to attainment for the 2010 1-hour SO_2 primary standard.

For more detailed information about this matter, please refer to the June 29, 2021 **Federal Register** document.

The notice of proposed rulemaking, as initially published in the **Federal Register**, provided for written comments to be submitted to the EPA on or before July 29, 2021 (a 30-day public comment period). Since publication, the EPA was made aware that the Technical Support Document (TSD) associated with the proposed rule was not included in the docket. The TSD was uploaded to the docket on July 18, 2021. Subsequently, the EPA received stakeholder requests

for the comment period to be extended. Accordingly, the EPA is reopening the public comment period to afford stakeholders the ability to fully evaluate the EPA's proposed action and an opportunity to comment on the technical basis for the EPA's proposed action. The EPA will address all comments received on the original proposal and on this supplemental notice in our final action.

Dated: August 11, 2021.

Edward H. Chu,

Acting Regional Administrator, Region 7.

[FR Doc. 2021–17587 Filed 8–16–21; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 86, No. 156

Tuesday, August 17, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 11, 2021.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by September 16, 2021. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Export Inspection and Weighing Waiver for High Quality Specialty Grains Transported in Containers Under the Authority of the United States Grain Standards Act.

OMB Control Number: 0581–0306.

Summary of Collection: The United States Grain Standards Act (USGSA), with few exceptions, requires official certification of export grain sold by grade. The regulations promulgating the USGSA require specific information collection and record-keeping necessary to enforce provisions in the statue. On July 29, 2011, Federal Grain Inspection Service (FGIS) published a final rule in the **Federal Register** (76 FR 45397) to amend the regulations under the USGSA to make permanent a waiver that expired on July 31, 2012 for high quality specialty grains exported in containers from the mandatory inspection and weighing requirements of the USGSA. To ensure that exporters of high-quality specialty grains comply with this waiver, FGIS is asking exporters to maintain records generated during their normal course of business that pertain to these shipments and make these documents available to the FGIS upon request. FGIS has no other means available to monitor the grain industry's compliance with provisions of this waiver.

Need and Use of the Information: To comply with the waiver of the mandatory inspection and weighing requirement, FGIS is asking exporters of high quality specialty grains transported in containers to maintain records generated during their normal course of business that pertain to these shipments and make these documents available to FGIS upon request. Experience has shown that the U.S. grain industry maintains grain contracts that specify quality parameters agreed to by buyers and sellers of grain. FGIS believes that grain contracts would provide sufficient information to determine if exporters of high-quality specialty grain are complying with the waiver. This information collection requirement is essential for FGIS to enforce provisions set forth in the USGSA. FGIS intends to request copies of the relevant documents annually to ensure compliance with this waiver. FGIS also will require exporters to maintain records for a 3-year period.

Description of Respondents: Business or other for-profit.

Number of Respondents: 40.

Frequency of Responses: Recordkeeping.

Total Burden Hours: 240.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–17548 Filed 8–16–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

[Docket Number: USDA–2021–0007]

Privacy Act of 1974; System of Records

AGENCY: Office of the Assistant Secretary for Civil Rights (OASCR), USDA.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Office of Management and Budget Circular No. A–108, the U.S. Department of Agriculture (USDA) proposes to create a new system of records, USDA/OASCR–2, Civil Rights Management System (CRMS). The Office of the Assistant Secretary for Civil Rights (OASCR) maintains CRMS, which contains program discrimination complaints, alleging unlawful discrimination arising within programs or activities conducted or assisted by USDA. The notice also conveys updates to the system location, categories of records, routine uses (one of which permits records to be provided to the National Archives and Records Administration), storage, safeguards, retention and disposal, system manager and address, notification procedures, records access, and contesting procedures.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records is subject to a 30-day notice and comment period in which to comment on the routine uses described in the routine uses section of this system of records notice. Please submit your comments by September 16, 2021.

ADDRESSES: You may submit comments by either of the following methods:

—*Federal eRulemaking Portal:* Go to: *http://www.regulations.gov/#!docket Detail:D=USDA-2021-0007.*

—*Postal Mail/Commercial Delivery:* Please send one copy of our comment to Docket No. USDA–2021–0007, OASCR, Center for Civil Rights Enforcement, 1400 Independence Ave. SW, Mailstop 9410, Washington, DC 20250, or at *ProgramComplaints@usda.gov* or Executive Director at Center for Civil Rights Enforcement, OASCR, USDA, 1400 Independence Ave. SW, Mailstop 9410, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Sandra Hammond, USDA, OASCR, Center for Civil Rights Enforcement, 1400 Independence Avenue SW, Mailstop 9410, Washington, DC 20250, or at *ProgramComplaints@usda.gov.* or Executive Director at Center for Civil Rights Enforcement, OASCR, USDA, 1400 Independence Avenue SW, Mailstop 9410, Washington, DC 20250.

For Privacy Act Questions: Please contact Michele Washington, *michele.washington@usda.gov* and for USDA Privacy Act general questions, please contact: *Sm.ocio.cio.usdaprivacy@usda.gov.*

SUPPLEMENTARY INFORMATION: The CRMS provides core support for the mission of Civil Rights (CR) offices, both at the department and sub-agency levels. The CRMS serves management needs of agency heads who are, by law, charged with the responsibility for agency compliance with civil rights laws and regulations. CRMS is a cloud- based enterprise-wide complaint tracking system, consisting of a suite of applications supporting USDA and all Department agencies by tracking complaints. Additionally, CRMS adheres to the regulatory reporting requirements and provides data for Civil Rights Reporting. The program discrimination complaints process supports enforcement of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act, the implementing regulations at 7 CFR part 15, and any other applicable anti-discrimination statutes, rules, and regulations.

The CRMS, formerly known as PCMS, will be housed on the Salesforce platform supported by USDA Office of the Chief Information Officer (OCIO).

The proposed revisions to the notice convey updates to the system location, categories of records, storage, safeguards, retention and disposal, system manager and address, notification procedures, records access, and contesting procedures.

USDA/OASCR will share information from the system in accordance with the requirements of the Privacy Act. A full list of routine uses is included in the routine uses section of the document published with this notice.

A report on the new system of records, required by 5 U.S.C. 552a(r), as implemented by Office of Management and Budget Circular A–108, was sent to the Chairman, Committee on Homeland Security and Government Affairs, United States Senate; the Chairwoman, Committee on Oversight and Reform, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Done in Washington, DC.

Winona Lake Scott,

Associate Assistant Secretary for Civil Rights.

SYSTEM NAME AND NUMBER:

USDA/OASCR–2, Civil Rights Management System, (CRMS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

OASCR maintains the records in this system and stores a hard copy at the National Archives and Records Administration. The electronic record systems are maintained on USDA servers physically located at the United States Department of Agriculture, 1400 Independence Drive, Washington, DC 20024. USDA records are housed within the SalesForce platform, managed and maintained by USDA/Office of the Chief Information Officer. These records may reside at another location within the Continental United States. Additionally, USDA employees may maintain hard or electronic copies at USDA offices.

SYSTEM MANAGER(S):

Executive Director, Center for Civil Rights Enforcement, OASCR, USDA,1400 Independence Avenue SW, Washington, DC 20250, 202–720–8106.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 42 U.S.C. 2000d, *et seq.,* 42 U.S.C. 3608(d); 42 U.S.C. 12101, *et seq.;* 20 U.S.C. 1681, *et seq.;* 29 U.S.C. 794; 15 U.S.C. 1691, *et seq;* and 7 U.S.C. 2011, *et seq.*

PURPOSE(S) OF THE SYSTEM:

CRMS provides core support for the mission of Civil Rights (CR) offices, both at the department and sub-agency levels. CRMS serves management needs of agency heads who are, by law, charged with the responsibility for agency compliance with civil rights laws and regulations. CRMS is a cloud-based enterprise-wide complaint tracking system, consisting of a suite of applications supporting USDA and all Department agencies by tracking complaints. CRMS will facilitate the improved management of program discrimination complaints.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include, but not limited to, individuals who have filed complaints of program discrimination by USDA, and the Department and sub-agencies. In addition, the system may capture information about individuals referenced or identified in records created or compiled as part of the process of documenting and processing program discrimination complaints.

Individuals who may have information in the system include contractors, complainants, witnesses, investigators, third parties, Administrative Judges, legal representatives, applicants for employment who have filed informal or formal complaints alleging discrimination, customers, members of the public who have filed a complaint, and others who have participated or otherwise been involved in proceedings relating to a program discrimination complaint.

Individuals, even if they are not users of the USDA/OASCR–2, who are mentioned or referenced in any documents entered into USDA/OASCR–2 by a user are also covered. This group may include, but is not limited to: Vendors, agents and other business personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the system consists of records created or compiled as part of the process of documenting and processing program discrimination complaints. Such records include the following: Records created or compiled in response to complainants' statements of alleged discrimination; respondents' statements; witnesses' statements; names and addresses of complainants and respondents; personal, employment, or program participation information; medical records; conciliation and settlement agreements; related correspondence; initial and final determinations; and any other records related to the intake, investigation, or adjudication of discrimination complaints.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the covered individuals as follow: Members of the public, USDA employees, contractors, USDA applicants, and other individuals or

entities participating in program complaint matters or is taken from other program discrimination complaints.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records contained in this system may be disclosed outside USDA as a routine use pursuant to 5 U.S.C. 552a(b)(3), to the extent that such uses are compatible with the purposes for which the information was collected. Such permitted routine uses include the following:

A. To the Department of Justice (DOJ) when: (a) USDA or any component thereof; or (b) any employee of USDA in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interests in such litigation, and USDA determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is deemed by USDA to be for a purpose that is compatible with the purpose for which USDA collected the records.

B. To a congressional office in response to an inquiry from that Congressional office made at the written request of the individual about whom the record pertains.

C. To the United States Civil Rights Commission in response to its request for information, per 42 U.S.C. 1975a.

D. To the National Archives and Records Administration (NARA) or other Federal government agencies pursuant to records management activities being conducted under 44 U.S.C. 2904 and 2906.

E. To appropriate agencies, entities, and persons when (1) USDA suspects or has confirmed that there has been a breach of the system of records; (2) USDA has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, USDA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To another Federal agency or Federal entity, when information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, USDA may disclose the record to the appropriate Federal, State, local, foreign, Tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

G. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the USDA or other Agency representing the USDA determines that the records are both relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

H. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the USDA, when necessary to accomplish an agency function related to this system of records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

OASCR, Records Management Services (RMS) is responsible for maintaining its program complaint records. These records are electronically stored in CRMS and OCIO. They are under the care and maintenance of OASCR.

Records maintained by OASCR are accessioned to NARA, as permanent records. Electronic records are stored at the USDA OCIO. USDA employees also may maintain paper or electronic copies at USDA offices.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic and paper records are indexed by name of complainant, agency, and address. Paper records are retrieved from NARA. Electronic records are retrieved from USDA OCIO Data Center. Electronic and/or paper records are retrieved from USDA employees at USDA offices.

To retrieve an individual record, an employee (with approval) would access CRMS or OCIO legacy database for an individual complaint file and enter the complainant's last and first name or the case number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained indefinitely in accordance with NARA's General Records Schedule 16. OASCR is working closely with the National Archives and Records Administration to update retention schedules. Records will be retained indefinitely pending NARA's approval of a records retention schedule.

USDA's General Records Schedule covers records-documenting activities related to managing relationships among the agency, its employees, and its unions and bargaining units.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Physical security measures are in place to prevent unauthorized persons from accessing OASCR. Electronic records are stored on secure file servers. OASCR includes physical access controls, firewalls, intrusion detection systems, and system auditing to prevent unauthorized access. To access OASCR, users are required to complete the USDA eAuthentication registration process and are validated through role-based authentication and authorization.

Paper files are kept in a safeguarded environment with controlled access only by authorized personnel. All OASCR users are also required to complete appropriate training to learn requirements for safeguarding records maintained under the Privacy Act. Digital Infrastructure Services Center (DISC) safeguards records and ensures that privacy requirements are met in accordance with Federal and cyber security mandates. DISC provides continuous storage management, security administration, regular dataset backups, and contingency planning/disaster recovery. DISC employs automated mechanisms to restrict access to media storage areas. This is done by requiring a successful scan from the Facility Security System prior to entrance. The Facility Security System requires an employee to successfully scan both their badge and a fingerprint to access areas containing stored media. The DISC also employs automated

mechanisms to audit access attempts and access granted into these areas.

RECORD ACCESS PROCEDURES:

All requests for access to records must be in writing and should be submitted to the OASCR FOIA Officer, 1400 Independence Avenue SW, Washington, DC 20250; or by email at *USDAFOIA@usda.gov.* In accordance with 7 CFR part 1, subpart G, § 1.112 (Procedures for requests pertaining to individual records in a record system), the request must include the full name of the individual making the request; the name of the system of records; and preference of inspection, in person or by mail. In accordance with 7 CFR 1.113, prior to inspection of the records, the requester shall present sufficient identification (*e.g.,* driver's license, employee identification card, social security card, credit cards) to establish that the requester is the individual to whom the records pertain. In addition, if an individual submitting a request for access wishes to be supplied with copies of the records by mail, the requester must include with his or her request sufficient data for the agency to verify the requester's identity.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their request to the address indicated in the ''RECORD ACCESS PROCEDURES'' paragraph, above and must follow the procedures set forth in 7 CFR part 1, subpart G, § 1.116 (Request for correction or amendment to record). All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

NOTIFICATION PROCEDURES:

Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the ''RECORD ACCESS PROCEDURES'' paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2021–17569 Filed 8–16–21; 8:45 am]

BILLING CODE 3410–9R–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0023]

BASF Corporation; Availability of a Draft Plant Pest Risk Assessment and Draft Environmental Assessment for Determination of Nonregulated Status of Plant-Parasitic Nematode-Protected and Herbicide Tolerant Soybean

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft plant pest risk assessment and draft environmental assessment regarding a request from BASF Corporation seeking a determination of nonregulated status for soybean event GMB151, which has been developed using genetic engineering for resistance to the plant-parasitic nematode, soybean cyst nematode (*Heterodera glycines*), and for tolerance to 4-hydroxyphenylpyruvate dioxygenase (HPPD-4) inhibitor herbicides. We are making these documents available for public review and comment.

DATES: We will consider all comments that we receive on or before September 16, 2021

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2020–0023 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–2020–0023, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

The petition, draft environmental assessment, draft plant pest risk assessment, 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) 7997039 before coming.

Supporting documents for this petition are also available on the APHIS website at *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/permits-notifications-petitions/petitions/petition-status.*

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Eck, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 851–3892, email: *cynthia.a.eck@usda.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Movement of Organisms Modified or Produced Through Genetic Engineering,'' regulate, among other things, the importation, interstate movement, or release into the environment of organisms modified or produced through genetic engineering that are plant pests or pose a plausible plant pest risk.

The petition for nonregulated status described in this notice is being evaluated under the version of the regulations effective at the time that it was received. The Animal and Plant Health Inspection Service (APHIS) issued a final rule, published in the **Federal Register** on May 18, 2020 (85 FR 29790–29838, Docket No. APHIS–2018–0034),[1] revising 7 CFR part 340; however, the final rule is being implemented in phases. The new Regulatory Status Review (RSR) process, which replaces the petition for determination of nonregulated status process, became effective on April 5, 2021 for corn, soybean, cotton, potato, tomato, and alfalfa. The RSR process is effective for all crops as of October 1, 2021. However, ''[u]ntil RSR is available for a particular crop . . . APHIS will continue to receive petitions for determination of nonregulated status for the crop in accordance with the [legacy] regulations at 7 CFR 340.6.'' (85 FR 29815). This petition for a determination of nonregulated status is being evaluated in accordance with the regulations at 7 CFR 340.6 (2020) as it was received by APHIS on November 13, 2019.

BASF Corporation (BASF) has submitted a petition (APHIS Petition Number 19–317–01p) to APHIS seeking a determination of nonregulated status under 7 CFR part 340, for soybean event GMB151 which has been developed using genetic engineering for resistance to the plant-parasitic nematode, soybean cyst nematode (*Heterodera glycines*), and for tolerance to 4-hydroxyphenylpyruvate dioxygenase (HPPD-4) inhibitor herbicides. The petition states that GMB151 soybean is

[1] To view the final rule, go to *www.regulations.gov* and enter APHIS–2018–0034 in the Search field.

unlikely to pose a plant pest risk and, therefore, should not be regulated under APHIS' regulations in 7 CFR part 340.

According to our process [2] for soliciting public comment when considering petitions for determination of nonregulated status of organisms developed using genetic engineering, APHIS accepts written comments regarding a petition once APHIS deems the petition complete. On May 28, 2020, APHIS announced in the **Federal Register** [3] (85 FR 32004–32005, Docket No. APHIS–2020–0023) the availability of the BASF petition for public comment. APHIS solicited comments on the petition for 60 days ending July 27, 2020.

APHIS received nine comments during the comment period. They were from the agricultural and private sectors. Five comments generally supported BASF's petition, while four expressed objections to crops developed or modified through genetic engineering.

After public comments are received on a completed petition, APHIS evaluates those comments and then provides a second opportunity for public involvement in our decision-making process. According to our public review process (see footnote 2), the second opportunity for public involvement follows one of two approaches, as described below.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves an organism that raises no substantive new issues, APHIS will follow Approach 1 for public involvement. Under Approach 1, APHIS prepares and announces in the **Federal Register** the availability of APHIS' preliminary regulatory determination along with its draft EA, preliminary finding of no significant impact (FONSI), and its draft plant pest risk assessment (PPRA) for a 30-day public review period. APHIS will evaluate any information received related to the petition and its supporting documents during the 30-day public review period. If APHIS determines that no substantive information has been received that would warrant APHIS altering its preliminary regulatory determination or FONSI, or substantially change the analysis of impacts in the EA, our preliminary regulatory determination will become final and effective upon notification of the public through an announcement on our website. No further **Federal Register** notice will be published announcing the final regulatory determination.

Under Approach 2, if APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves an organism that raises substantive new issues, APHIS first solicits written comments from the public on a draft EA and draft PPRA for a 30-day comment period through the publication of a **Federal Register** notice. Then, after reviewing and evaluating the comments on the draft EA and draft PPRA and other information, APHIS will revise the draft PPRA as necessary. It will then prepare a final EA, and based on the final EA, a National Environmental Policy Act (NEPA) decision document (either a FONSI or a notice of intent to prepare an environmental impact statement).

For this petition, we will be following Approach 2.

As part of our decision-making process regarding an organism's regulatory status, APHIS prepared a PPRA to assess the plant pest risk of the organism, and an EA to evaluate potential impacts on the human environment. This will provide the Agency and the public with a review and analysis of any potential environmental impacts that may result if the petition request is approved.

APHIS' draft PPRA compared the pest risk posed by soybean event GMB151 with that of the unmodified variety from which it was derived. The draft PPRA concluded that soybean event GMB151 is unlikely to pose an increased plant pest risk compared to the unmodified soybean.

The draft EA evaluated potential impacts that may result from the commercial production of GMB151 soybean, to include potential impacts on conventional and organic soybean production; the acreage and area required for U.S. soybean production; agronomic practices and inputs; the physical environment; biological resources; human health and worker safety; animal health and welfare; and socioeconomic impacts. No significant impacts were identified with the production and marketing of GMB151 soybean.

The draft EA was prepared in accordance with (1) 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).

We are making available for a 30-day review period our draft EA and draft PPRA. These documents are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. Copies of these documents may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

After the 30-day review period closes, APHIS will review and evaluate any information received during the 30-day review period.

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 11th day of August 2021.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–17558 Filed 8–16–21; 8:45 am]

BILLING CODE 3410–34–P

[2] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for organisms developed using genetic engineering. To view the notice, go to *www.regulations.gov* and enter APHIS–2011–0129 in the Search field.

[3] To view the notice, its supporting documents, and the comments that we received, go to *www.regulations.gov* and enter APHIS–2020–0023 in the Search field.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Minnesota Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Minnesota Advisory Committee (Committee) will hold a meeting via the online platform WebEx on Tuesday, August 24, 2021 at 12:00 p.m. Central Time. The purpose of the meeting is to discuss a memorandum on civil rights concerns in the state.

DATES: The meeting will be held on:

- Tuesday, August 24, 2021, at 12:00 p.m. Central Time

Web link: https://civilrights.webex.com/civilrights/j.php?MTID=m16213078bd3f943a55c68fe7491c75ad

Join by phone: 800–360–9505 USA Toll Free

Access code: 199 660 9075

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Officer, at *dbarreras@usccr.gov* or (202) 656–8937.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above 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. An individual who is deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are 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 David Barreras at *dbarreras@usccr.gov.*

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, Minnesota 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 address.

Agenda

I. Welcome & Roll Call
II. Chair's Comments
III. Committee Discussion
IV. Public Comment
VI. Adjournment

Dated: August 11, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–17547 Filed 8–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Circular Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 17, 2021.

FOR FURTHER INFORMATION CONTACT: Magd Zalok, 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) 482–4162.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on circular welded carbon steel standard pipe and tube products (welded pipe and tube) from Turkey. The period of review (POR) is May 1, 2019, through April 30, 2020. Commerce published the notice of initiation of this administrative review on July 10, 2020.[1] The preliminary results are listed below in the section titled ''Preliminary Results of Review.''

This review covers 20 companies. The sole mandatory respondent in this administrative review is Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan Mannesmann) and Borusan Istikbal Ticaret T.A.S. (Istikbal) (collectively, Borusan).[2] On March 25, 2021, we extended the deadline for the preliminary results by 120 days to July 30, 2021.[3] For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum.[4] A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix I 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/.*

Scope of the Order

The merchandise covered by the order is circular welded carbon steel standard pipe and tube products. For a complete description of the scope of the order, see the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

Preliminary Determination of No Shipments

Between June 3, and August 14, 2021, 14 companies timely submitted letters to Commerce certifying that they had no sales, shipments, or entries of the subject merchandise to the United States during the POR.[5]

With respect to Istikbal, one of the companies that certified no shipment during the POR, we continue to find Istikbal to be part of the single entity, Borusan, and we find no record evidence that warrants altering this treatment. Therefore, because we find that Borusan had shipments during this POR, we have not made a preliminary determination of no shipments with respect to Istikbal.

With respect to the remaining 13 companies that certified no shipment, U.S. Customs and Border Protection (CBP) did not have any information to contradict these claims of no shipment

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 41540 (July 10, 2020) (*Initiation Notice*).

[2] *See* Memorandum, ''Administrative Review of the Antidumping Duty Order on Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Respondent Selection,'' dated September 22, 2020.

[3] *See* Memorandum, ''2019–2020 Antidumping Duty Administrative Review of Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated March 25, 2021.

[4] *See* Memorandum, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey; 2019–2020'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* Toscelik's Letter, ''Circular Welded Carbon Steel Pipe from Turkey; Toscelik No Shipments Letter,'' dated June 3, 2020, *see also* Yucel's Letter, ''Circular Welded Carbon Steel Pipe from Turkey; Yucel No Shipments Letter,'' dated June 3, 2020; Yucel's Letter, ''Circular Welded Carbon Steel Pipe from Turkey; Comments Regarding No-Shipment Letters,'' dated September 22, 2020; Cinar Boru Profil Sanayi ve Ticaret Anonim Sirketi's Letter, ''Circular Welded Carbon Steel Pipes and Tubes from Turkey (A–489–501),'' dated June 19, 2020; Erbosan Erciya Boru Sanayi ve Ticaret A.S.'s Letter, ''No Shipment Certification of Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (''ERBOSAN'') in the 2019–2020 Administrative Review of the Antidumping Duty Order Involving Certain Welded Carbon Steel Standard Pipe from Turkey,'' dated July 9, 2020; Borusan's Letter, ''Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A–489–501: No Shipments Letter,'' August 14, 2020.

during the POR.[6] Therefore, we preliminarily determine that the companies listed in Appendix II did not have shipments of subject merchandise during the POR. Consistent with our practice,[7] Commerce finds that it is not appropriate to rescind the review with respect to these 13 companies but, rather, to complete the review and issue appropriate instructions to CBP based on the final results of this review.

Rates for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely on the basis of facts available.

Five companies, Borusan Holding, Borusan Mannesmann Yatirim Holding (Borusan Yatirim), Kale Baglann Teknolojileri San. ve Tic. A.S. (Kale Baglann), Kale Baglanti Teknolojileri San. ve Tic. A.S. (Kale Baglanti), and Noksel Celik Boru Sanayi A.S. (Noksel Celik) remain subject to this administrative review because none of these five companies: (1) Was selected as a mandatory respondent;[8] (2) was the subject of a withdrawal of request for review; (3) requested to participate as a voluntary respondent; or (4) submitted a claim of no shipments. As such, these five companies remain as unexamined respondents.

Preliminary Results of Review

As a result of this review, we calculated a weighted-average dumping margin of 26.22 percent for Borusan for the period May 1, 2019, through April 30, 2020. We assigned 26.22 percent, the weighted-average dumping margin of the mandatory respondent Borusan to the five non-selected companies in these preliminary results, as referenced below.

Exporter/producer	Estimated weighted-average dumping margin (percent)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S./Borusan Istikbal Ticaret T.A.S	26.22
Review-Specific Average Rate Applicable to the Following Companies[9]	
Borusan Holding	26.22
Borusan Mannesmann Yatirim Holding	26.22
Kale Baglanti Teknolojileri San. ve Tic. A.S	26.22
Kale Baglann Teknolojileri San. Ve Tic. A.S	26.22
Noksel Celik Boru Sanayi A.S	26.22

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[10] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.[11] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Pursuant to 19 CFR 351.212(b)(1), where an examined respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping calculated for the U.S. sales for a given importer to the total entered value of those sales. Where a mandatory respondent did not report entered value, we calculate the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or de minimis within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies that were not selected for individual examination, we will instruct CBP to assess antidumping duties at an *ad valorem* rate equal to each company's weighted-average dumping margin determined in the final results of this review.

For entries of subject merchandise during the POR produced by Borusan for which it did not know that its merchandise was destined for the United States and for all entries

[6] *See* Preliminary Decision Memorandum; *see also* Memorandum, ''Welded Carbon Steel Standard Pipe and Tube Products from Turkey: U.S. Customs and Border Protection Information for 2019–2020 Review Period,'' dated August 12, 2020.

[7] *See, e.g., Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipment; 2017–2018,* 84 FR 34863 (July 19, 2019), and accompanying Preliminary Decision Memorandum at 4*; see also Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below, and *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013,* 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR 51306, 51307 (August 28, 2014).

[8] *See* Respondent Selection Memorandum.

[9] This rate is based on the rate calculated for Borusan.

[10] 19 CFR 351.212(b)(1).

[11] *See* section 751(a)(2)(C) of the Act.

attributed to companies that we find had no shipments during the POR, we will instruct CBP to liquidate such unreviewed entries pursuant to the reseller policy,[12] *i.e.,* the assessment rate for such entries will be equal to the all-others rate established in the investigation (*i.e.,* 14.74 percent *ad valorem*),[13] if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be equal to each company's weighted-average dumping margin established in the final results of this review, (except if the *ad valorem* rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero); (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the underlying investigation, but the producer is, then the cash deposit rate will be the rate established for the completed segment for the most recent POR for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 14.74 percent, the all-others rate established in the underlying investigation.[14]

These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[15] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the time limit for filing case briefs.[16] 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.[17] Executive summaries should be limited to five pages total, including footnotes.[18] Case and rebuttal briefs should be filed using ACCESS and must be served on interested parties.[19] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[20]

Pursuant to 19 CFR 351.310(c), any interested party who wishes to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.[21] 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 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[22]

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 30, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Determination of No Shipments
V. Companies Not Selected for Individual Examination
VI. Discussion of the Methodology
  A. Comparison of Normal Value
  B. Level of Trade
  C. Affiliated Party and Arm's-Length Test
  D. Cost of Production Analysis
VII. Currency Conversion
VIII. Recommendation

Appendix II

List of Companies With No Shipments During the Period of Review

1. Toscelik Profil ve Sac Endustrisi A.S.
2. Tosyali Dis Ticaret A.S.
3. Toscelik Metal Ticaret A.S.
4. Cayirova Boru Sanayi ve Ticaret A.S.
5. Yucel Boru ve Profil Endustrisi A.S.
6. Yucelboru Ihracat ve Pazarlama A.S.
7. Cinar Boru Profil San Ve Tic. AS
8. Erbosan Erciyas Boru Sanayi ve Ticaret A.S.
9. Borusan Birlesik Boru Fabrikalari San ve Tic
10. Borusan Gemlik Boru Tesisleri A.S.
11. Borusan Ihracat Ithalat ve Dagitim A.S.
12. Tubeco Pipe and Steel Corporation
13. Borusan Ithicat ve Dagitim A.S.

[FR Doc. 2021–17529 Filed 8–16–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–137]

Pentafluoroethane (R–125) From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

[12] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[13] *See Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey,* 51 FR 17784 (May 15, 1986).

[14] *Id.*

[15] *See* 19 CFR 351.309(c)(1)(ii); *see also* 19 CFR 351.303 (for general filing requirements).

[16] *See* 19 CFR 351.309(d)(1).

[17] *See* 19 CFR 351.309(c)(2) and (d)(2).

[18] *Id.*

[19] *See* 19 CFR 351.303.

[20] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[21] *See* 19 CFR 351.310(c).

[22] *See* 19 CFR 351.310(c); *see also* 19 CFR 351.303(b)(1).

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that pentafluoroethane (R–125) from the People's Republic of China (China) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2020, through December 31, 2020. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 17, 2021.

FOR FURTHER INFORMATION CONTACT: Alex Wood or Benjamin A. Luberda, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1959 or (202) 482–2185, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 8, 2021.[1] On March 12, 2021, Commerce limited the number of respondents selected for individual examination to the two largest R–125 producers/exporters, by volume, that submitted a Q&V questionnaire response, and we issued the AD questionnaire to them.[2] These companies are Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd., (Juxin) and Zhejiang Sanmei Chemical Ind. Co., Ltd. (Sanmei). On May 10, 2021, Juxin informed Commerce that it would no longer participate as a mandatory respondent in this investigation.[3] On June 3, 2021, Commerce postponed the preliminary determination of this investigation and the revised deadline is now August 10, 2021.[4] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[5] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II 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 *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Investigation

The product covered by this investigation is R–125 from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[6] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).[7] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice,* as well as additional language proposed by Honeywell International, Inc. (petitioner).[8] For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[9] Commerce has preliminarily modified the scope language that appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price in accordance with section 772(a) of the Act. Because China is a non-market economy, within the meaning of section 771(18) of the Act, Commerce has calculated normal value (NV) in accordance with section 773(c) of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon the facts otherwise available, with adverse inferences, in determining the estimated weighted-average dumping margin for the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of R–125 from China for the non-selected companies receiving a separate rate and the China-wide entity, including Juxin, but do not exist for Sanmei. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[10] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[11] In this investigation, we calculated producer/exporter combination rates for respondents eligible for separate rates.

Separate Rates

In addition to Sanmei, we have preliminarily granted certain non-individually examined respondents a separate rate. Also, because Juxin withdrew its participation as a mandatory respondent in this investigation, we have preliminarily denied a separate rate to Juxin and are treating it as part of the China-wide entity.[12] *See* the Preliminary Decision Memorandum for details.

In calculating the rate for non-individually examined separate rate respondents in a non-market economy antidumping duty (AD) investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy AD investigation, for guidance. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the weighted average of the estimated AD rates established for those companies

[1] *See Pentafluoroethane (R–125) from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 86 FR 8583 (February 8, 2021) (*Initiation Notice*).

[2] *See* Memorandum, ''Respondent Selection,'' dated March 12, 2021.

[3] *See* Juxin's Letter, ''Juxin Withdrawal as a Mandatory Respondent,'' dated May 10, 2021 (Juxin Withdrawal Letter).

[4] *See Pentafluoroethane (R–125) from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation,* 86 FR 29752 (June 3, 2021).

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Pentafluoroethane (R–125) from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[7] *See Initiation Notic*e at 8584.

[8] *See* Petitioner's Letters, ''Scope Comments,'' dated February 22, 2021; and ''Honeywell International Inc.'s Scope Supplemental Questionnaire Response,'' dated July 20, 2021.

[9] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Scope Decision Memorandum).

[10] *See Initiation Notice,* 86 FR 8587.

[11] *See* Enforcement and Compliance's Policy Bulletin No. 05.1 regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[12] *See* Juxin Withdrawal Letter.

individually examined, excluding zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for Sanmei, the only individually examined exporter/producer in this investigation. Because the only individually calculated weighted average dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the weighted-average dumping margin calculated for Sanmei is the basis to determine the weighted-average dumping margin for the separate rate, non-examined companies, using section 735(c)(5)(A) of the Act for guidance, which provides for the determination of the estimated weighted-average dumping margin for all other producers and exporters in a market economy investigation. *See* the table in the ''Preliminary Determination'' section of this notice.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Zhejiang Sanmei Chemical Ind. Co., Ltd	Zhejiang Sanmei Chemical Ind. Co., Ltd	280.37	280.37
Fujian Qingliu Dongying Chemical Ind. Co., Ltd	Zhejiang Sanmei Chemical Ind. Co., Ltd	280.37	280.37
Producers Supplying the Non-Individually-Examined Exporters Receiving Separate Rates (*see* Appendix III).	Non-Individually-Examined Exporters Receiving Separate Rates (*see* Appendix III).	280.37	280.37
China-Wide Entity [13]		280.48	280.48

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which NV exceeds U.S. price, as indicated in the chart above as follows: (1) For the producer/exporter combinations listed in the table above and in Appendix III, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-county exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Chinese producer/exporter combination (or the China-wide entity) that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) The date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from the non-selected companies receiving a separate rate and the China-wide entity. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from the non-selected companies receiving a separate rate and the China-wide entity that were entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days before the publication of this notice.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the Preliminary Determination section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for the passed-through domestic subsidies or for export subsidies at the time the CVD provisional measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

Commerce is currently unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification. Commerce will notify interested parties of any additional documentation or information required.

[13] The China-Wide Entity also includes Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[14]

Pursuant to 19 CFR 351.309(c), interested parties may comment on Commerce's preliminary scope decision no later than 21 days after the publication date of the preliminary determination. Scope rebuttal briefs, limited to issues raised in the scope case briefs, may be submitted no later than seven days after the deadline for the scope case briefs. These deadlines apply for both the AD and CVD investigations. For all scope issues, parties must file separate and identical documents on the records of both the AD and CVD investigations. No new factual information or proprietary information should be included in the scope case briefs and scope rebuttal briefs.

Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.[15] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation 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.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

[14] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On August 5, 2021, pursuant to 19 CFR 351.210(e), Sanmei requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[16] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, the deadline for Commerce's final determination will be no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

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: August 10, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[16] *See* Sanmei's Letter, ''Request to Postpone the Final Determination,'' dated August 5, 2021.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is pentafluoroethane (R–125), or its chemical equivalent, regardless of form, type or purity level. R–125 has the Chemical Abstracts Service (CAS) registry number of 354–33–6 and the chemical formula C_2HF_5. R–125 is also referred to as Pentafluoroethane, Genetron HFC 125, Khladon 125, Suva 125, Freon 125, and Fc-125.

R–125 that has been blended with other products is included within the scope if such blends contain 85% or more by volume R–125, on an actual percentage basis. However, R–125 incorporated into a blend that conforms to ANSI/ASHRAE Standard 34 is excluded from the scope of this investigation. When R–125 is blended with other products and otherwise falls under the scope of this investigation, only the R–125 component of the mixture is covered by the scope of this investigation.

Subject merchandise also includes purified and unpurified R–125 that is processed in a third country or otherwise outside the customs territory of the United States, including, but not limited to, purifying, blending, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope R–125. The scope also includes R–125 that is commingled with R–125 from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

Excluded from the scope is merchandise covered by the scope of the antidumping order on *Hydrofluorocarbon Blends from the People's Republic of China,* including merchandise subject to the affirmative anti-circumvention determination in *Hydrofluorocarbon Blends from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order; Unfinished R–32/R–125 Blends,* 85 FR 15428 (March 18, 2020). *See Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order,* 81 FR 55436 (August 19, 2016) (the Blends Order).

R–125 is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2903.39.2035 and 2903.39.2938. Merchandise subject to the scope may also be entered under HTSUS subheadings 2903.39.2045, 3824.78.0020, and 3824.78.0050. The HTSUS subheadings and CAS registry number are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Scope of the Investigation
VI. Discussion of the Methodology
VII. Currency Conversion
VIII. Adjustment Under Section 777(A)(f) of the Act
IX. Adjustments to Cash Deposit Rates for Export Subsidies
X. ITC Notification
XI. Recommendation

Appendix III

LIST OF SEPARATE RATE COMPANIES

Exporter	Producer
Non-individually-examined exporters receiving separate rates	Producers supplying the non-individually-examined exporters receiving separate rates
Huantai Dongyue International Trade Co. Ltd.	Jinhua Binglong Chemical Technology Co., Ltd.
Shandong Dongyue Chemical Co., Ltd.	Shandong Dongyue Chemical Co., Ltd.
Shandong Huaan New Material Co., Ltd.	Shandong Huaan New Material Co., Ltd.
T.T. International Co., Ltd./T.T. International Co., Limited [17].	Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.
T.T. International Co., Ltd./T.T. International Co., Limited.	Zhejiang Quhua Fluor-Chemistry Co., Ltd.
T.T. International Co., Ltd./T.T. International Co., Limited.	Zhejiang Sanmei Chemical Industry. Co., Ltd.
Zhejiang Yonghe Refrigerant Co., Ltd.	Jinhua Yonghe Fluorochemical Co., Ltd.
Zibo Feiyuan Chemical Co., Ltd.	Zibo Feiyuan Chemical Co., Ltd.

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[17] Commerce preliminarily determines that T.T. International Co., Ltd. and T.T. International Co., Limited are a single entity. *See* Memorandum, ''Less-Than-Fair-Value Investigation of Pentafluoroethane (R–125) from the People's Republic of China: Affiliation and Single Entity Status—T.T. International Co., Ltd.,'' dated concurrently with this notice.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice Requesting Nominations for the Advisory Committee on Commercial Remote Sensing (ACCRES)

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Request for membership nominations.

SUMMARY: The Department of Commerce is seeking 3 to 5 representatives of key stakeholders in the commercial space-based remote sensing industry and among users of space-based remote sensing data to serve on the Advisory Committee on Commercial Remote Sensing (ACCRES). The Committee is comprised of representatives of leaders in the commercial space-based remote sensing industry, space-based remote sensing data users, government, and academia. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

FOR FURTHER INFORMATION CONTACT: Tashaun Pierre, Commercial Remote Sensing Regulatory Affairs Office, NOAA Satellite and Information Services, telephone (301) 713–7047, email *Tashaun.pierre@noaa.gov.*

SUPPLEMENTARY INFORMATION: ACCRES was established by the Secretary of Commerce on May 21, 2002, to advise the Secretary, through the Under Secretary of Commerce for Oceans and Atmosphere, on matters relating to the U.S. commercial remote sensing industry and NOAA's activities to carry out responsibilities of the Department of Commerce as set forth in the National and Commercial Space Programs Act of 2010 (the Act), Title 51 U.S.C. 60101 *et seq.*

Committee members serve in a representative capacity for a term of two years and may serve additional terms, if reappointed. No more than 20 individuals at a time may serve on the Committee. ACCRES will have a fairly balanced membership consisting of approximately 9 to 20 members. Nominations are encouraged from all interested U.S. persons and organizations representing interests affected by the regulation of remote sensing. Nominees must represent stakeholders in remote sensing, space commerce, space policy, or a related field and be able to attend committee meetings that are held usually two times per year. Membership is voluntary, and service is without pay. Each nomination that is submitted should include the proposed committee member's name and organizational affiliation, a brief description of the nominee's qualifications and interest in serving on the Committee, a curriculum vitae or resume of the nominee, and no more than three supporting letters describing the nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each submission: The nominee's name, address, phone number, and email address.

Nominations should be sent to Tahara Dawkins, Director, Commercial Remote Sensing Regulatory Affairs Office, email *tahara.dawkins@noaa.gov.* Nominations must be emailed no later than 30 days from the publication date of this notice. Please include affiliation, home address and business address for each nominee. The full text of the Committee Charter and its current membership can be viewed at the Agency's web page at: *http://www.nesdis.noaa.gov/CRSRA/accresHome.html.*

Stephen M. Volz,

Assistant Administrator for Satellite and Information Services.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB283]

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; issuance of renewal 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 a renewal incidental harassment authorization (IHA) to the United States Navy (Navy) to incidentally harass marine mammals incidental to construction activities for the Service Pier Extension Project at Naval Base Kitsap Bangor in Silverdale, Washington.

DATES: This renewal IHA is valid from August 11, 2021 through July 15, 2022.

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 IHA for the initial authorization, 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 initial IHA notice of issuance, 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; and

(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.*

History of Request

On June 28, 2018, NMFS published a notice of 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 the renewal of that initial IHA. As described in the application for renewal, the activities for which incidental take is requested consist of a subset of activities that are covered by the initial authorization but will not be completed prior to its

expiration. 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. The notice of the proposed renewal IHA was published on July 19, 2021 (86 FR 38025) for a 15-day public comment period in the **Federal Register**.

Description of the Specified Activities and Anticipated Impacts

The Navy plans to continue its construction activities at Naval Base Kitsap Bangor. The remaining construction activities involve the installation of 103 18-inch square concrete fender piles by impact pile driving over a 35-day period during a specified in-water work window (July 16 through January 15) due to the presence of Endangered Species Act (ESA)-listed juvenile salmonids are likely to be present in the area (February—July; USACE, 2015). The activities left for the Service Pier Extension Project are shown in Table 1. Please see the notice of proposed renewal IHA (86 FR 38025; July 19, 2021) for additional details.

TABLE 1—CONSTRUCTION ACTIVITIES COMPLETED BY THE EXPIRATION OF THE 2020 MODIFIED IHA AND REMAINING

SPE project feature	Pile type	Pile installation and/or extraction method	2018 and 2020 IHAs		Renewal IHA	
			Total numbers of piles initially analyzed	Total number of piles completed [2]	Subset of piles remaining	Number of pile driving days for the 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	209 [1]	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 per the recommendations by the Navy's project engineers.

The following documents are referenced in this notice and include important supporting information:

- Initial proposed 2018 IHA (83 FR 10689; March 12, 2018);
- Initial final 2018 IHA (83 FR 30406; June 28, 2018);
- Modified proposed 2020 IHA (85 FR 74989; November 24, 2020);
- Modified final 2020 IHA (85 FR 86538; December 30, 202);
- Renewal proposed IHA (86 FR 38025; July 19, 2021);
- Appendix A and D of the original and renewal IHA applications (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor*);
- The preliminary monitoring report included with the renewal IHA application (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor*);
- References cited (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor*); and
- Previous public comments received (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-service-pier-extension-project-naval-base-kitsap-bangor*).

The anticipated impacts, which include both Level A and Level B harassment of marine mammals by impact pile driving, are identical to those analyzed and authorized in the initial 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020). Similar to the last projects at Naval Base Kitsap Bangor, the 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. However, as the work for which take would be authorized under this renewal IHA represents a subset of the overall activities originally planned and discussed in the initial 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020), NMFS plans to authorize only a subset of Level A and Level B harassment takes compared to those takes previously authorized under the modified 2020 IHA (85 FR 86538; December 30, 2020).

The anticipated impacts are identical to those described in the 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020). However, NMFS anticipates that only pinniped species (harbor seals, California sea lions, Steller sea lions) are likely to be taken incidental to the

concrete impact pile driving, a result from the analysis discussed in greater detail in the 2018 IHA (83 FR 30406; June 28, 2018). Because of this, no take will be authorized for killer whales or harbor porpoises during the concrete impact piling activities discussed in the Navy's 2021–2022 IHA application.

A detailed description of the construction activities for which authorization of take was requested may be found in the **Federal Register** notice of the proposed 2018 IHA (83 FR 10689; March 12, 2018) and the modified proposed 2020 IHA (85 FR 74989; November 24, 2020). The location, timing (*e.g.,* seasonality), and nature of the subset of construction activities planned under the renewal IHA are identical to those analyzed for concrete impact piling in the 2018 Notice (83 FR 30406; June 28, 2018) and subsequent 2020 modification Notice (85 FR 86538; December 30, 2020).

This renewal IHA is effective from August 11, 2021 until July 15, 2022.

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 notices for the 2018 (83 FR 10689; March 12, 2018 and 83 FR 30406; June 28, 2018) and the 2020 modified (85 FR 74989; November 24, 2020 and 85 FR 86538; December 30, 2020) IHAs. NMFS has reviewed the monitoring data from the 2020 modified IHA, recent Stock Assessment Reports (SARs), information on relevant Unusual Mortality Events (UMEs), 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 (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020) are 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). This updated information does not change the findings or conclusions from the 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020).

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 authorized here may be found in the notices of the proposed and final notices for the 2018 (83 FR 10689; March 12, 2018 and 83 FR 30406; June 28, 2018) and the 2020 modified (85 FR 74989; November 24, 2020 and 85 FR 86538; December 30, 2020) IHAs. NMFS has reviewed the monitoring data from the 2020 modified IHA, recent Stock Assessment Reports, information on relevant UMEs, 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

A detailed description of the methods and inputs used to estimate take for the specified activity can be found in the proposed and final **Federal Register** notices for the 2018 (83 FR 10689; March 12, 2018 and 83 FR 30406; June 28, 2018) and the 2020 modified (85 FR 74989; November 24, 2020 and 85 FR 86538; December 30, 2020) IHAs. The information informing the take estimates remains applicable to this authorization, and is unchanged from the previously issued IHAs. As before, no serious injury or mortality is anticipated to result from the Navy's construction activities.

We assume, for purposes of analysis, that no take will occur for either cetacean species (*i.e.,* killer whales and harbor porpoises) during the specified impact pile driving activities for the 103 concrete piles. This is because the isopleths for impact pile driving of concrete piles were described as fully monitorable (with maximum distances to behavioral thresholds of 46 m and 541 m, respectively, and maximum distance to injury thresholds being 14 m); therefore, no killer whale behavioral or injury takes were expected to occur. Harbor porpoise are able to be visually detected to a distance of about 200 m by experienced observers in conditions up to Beaufort 2 (Department of the Navy, 2017). Therefore, the concrete isopleths are able to be fully monitored (with maximum distance of 46 m), so no takes were calculated for the estimated 35 days of concrete fender pile installation. More information can be found under Take Calculation and Estimation in the 2018 proposed (83 FR 10689; March 12, 2018) and 2018 final (83 FR 30406; June 28, 2018) notices. Thus, only take is expected for pinniped species, which is shown below in Table 2.

TABLE 2— 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	Stock abundance	Authorized Level A harassment (percent of stock)	Authorized Level B harassment (percent of stock)
California sea lion	*Zalophus californianus*	United States	257,606	0 (0)	1,710 (0.7).
Steller sea lion	*Eumetopias jubatus monteriensis.*	Eastern United States	43,201	0 (0)	110 (0.3).
Harbor seal	*Phoca vitulina richardii*	Hood Canal	1,088	280 (unknown).[1]	1,225 (unknown).[1]

[1] Because the stock information is not considered current, there are no minimum abundance estimates to use for calculation. The abundance estimate for this stock is greater than eight years old (1999) and is therefore not considered current. PBR is considered undetermined for this stock, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

The stocks taken (including the lack of take for the cetacean stocks during concrete impact pile driving), methods of take, and types of take remain unchanged from what was described in the previously issued 2020 modified

IHA. The take authorized for this action consists of a subset of the overall take previously authorized and discussed in greater detail in the final 2018 IHA (83 FR 30406; June 28, 2018) and final modified 2020 IHA (85 FR 86538; December 30, 2020).

Description of Mitigation, Monitoring and Reporting Measures

Mitigation Requirements

The required 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 2020 IHA (85 FR 86538; December 30, 2020), and the discussion of the least practicable adverse impacts included in that document remains accurate. All mitigation, monitoring, and reporting measures in the modified 2020 IHA (85 FR 86538; December 30, 2020) are carried over in this renewal IHA and summarized here:

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 in the proposed renewal (86 FR 38025; July 18, 2021) when ESA-listed salmonids are least likely to be present (July 16 to January 15; USACE, 2015).

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 two hours after sunrise and ending two 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 meters (m; 328 feet (ft)) 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. Different functional hearing groups for pinnipeds were evaluated. The shutdown zones for phocids were based on the maximum calculated Level A harassment radius for pinnipeds 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 m (33 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 3 will be monitored out to the greatest extent possible with a focus on monitoring within 100 m for concrete pile installation.

TABLE 3—SHUTDOWN, LEVEL A HARASSMENT, AND LEVEL B HARASSMENT ISOPLETHS DURING IMPACT DRIVING OF CONCRETE PILES FOR PINNIPEDS

Marine mammal group	Level B harassment isopleth (meters)	Level A harassment isopleth (meters)	Shutdown zone (meters)	Minimum monitoring zone for concrete piles
Harbor seal	46	19	35	100 meters.[1]
Sea Lions	46	1	15	

[1] The Navy has noted in their renewal application that they will be monitoring a 100 meter radius 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.

The isopleths delineating shutdown, Level A harassment, and Level B harassment zones during impact driving of all concrete piles are shown in Table 3. 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 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020). Note that the Shutdown Zone is larger than the Level A harassment isopleth for harbor seals and sea lions.

The Navy may perform hydroacoustic monitoring during activities discussed in this action. If hydroacoustic monitoring is performed, 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.

Harbor seal-specific mitigation—As described in the proposed renewal (86 FR 38025; July 18, 2021), 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 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 does not necessitate any changes to the harbor seal-specific mitigation measures discussed 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 identifiable 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, the Navy has 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 identifiable 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 any of the other five seals identified as frequent visitors, approaches or enters into a Level A harassment zone, shutdown must occur.

Monitoring Requirements

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; and,

(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.

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 and 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. 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).

Reporting Requirements

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 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, 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 IHA application).

Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to the Navy was published in the **Federal Register** on July 19, 2021 (86 FR 38025). That notice described and referenced descriptions of the Navy's activities, the marine mammal species that may be affected by the activities, the anticipated effects on marine mammals and their habitat, estimated amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received no public comments.

Determinations

The activities planned by the Navy are identical to a subset of those analyzed in the 2018 IHA (83 FR 30406; June 28, 2018) and discussed in the modified 2020 IHA (85 FR 86538; December 30, 2020), as are the method of taking and the effects of the action. The potential effects of the Navy's activities are limited to Level A harassment of one species (harbor seals) and Level B harassment in the form of behavioral disturbance for three species (California sea lions, Steller sea lions, and harbor seals). As the activities described herein represent a subset, the take that was analyzed and described in the proposed renewal (86 FR 38025; July 18, 2021) is relatively smaller than authorized previously in the overall projects described in the modified 2020 IHA (85 FR 86538; December 30, 2020). In analyzing the effects of the activities in the 2018 IHA (83 FR 30406; June 28, 2018) and the modified 2020 IHA (85 FR 86538; December 30, 2020), NMFS determined that the Navy's activities would have a negligible impact on the affected species or stocks and the takes would be of small numbers. The mitigation measures and monitoring and reporting requirements as described above are identical to the 2018 IHA (83 FR 30406; June 28, 2018) and modified 2020 IHA (85 FR 86538; December 30, 2020).

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the 2020 modified IHA. This includes consideration of the estimated abundance of the stocks for Steller sea lions (eastern United States stock) increasing slightly and the estimated abundance for the stock of California sea lions (United States stock) 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 (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 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. No incidental take of ESA-listed marine mammal species is expected to result from these activities, and none would be authorized. Therefore, NMFS has determined that consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act (NEPA)

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 IHA) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHA 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 NMFS has 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.

Renewal

NMFS has issued a renewal IHA to the Navy for the take of marine mammals incidental to conduct the Service Pier Extension Project at Naval Base Kitsap Bangor in Silverdale, Washington from August 11, 2021 through July 15, 2022.

Dated: August 11, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–17525 Filed 8–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB333]

Marine Mammals; File No. 25850

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the University of California at Davis, 387 North Quad Ave., Room 1210 PES, Davis, CA 95616 (Responsible Party: Chris Yarnes, Ph.D.) has applied in due form for a permit to import parts from killer whales (*Orcinus orca*) for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before September 16, 2021.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then

selecting File No. 25850 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 25850 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D. or Jordan Rutland, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to import biological samples from Canada for stable isotope analysis to study trophic ecology and distribution. An unlimited number of samples from up to 40 killer whales may be imported annually. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 12, 2021.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–17607 Filed 8–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 210806–0159]

RTID 0648–XW032 and 0648–XW013

Listing Endangered and Threatened Wildlife; 12-Month Findings on Petitions To List Spring-Run Oregon Coast Chinook Salmon and Spring-Run Southern Oregon and Northern California Coastal Chinook Salmon as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Notice of 12-month petition findings.

SUMMARY: We, NMFS, announce 12-month findings on 2 petitions to list populations of spring-run Chinook salmon (*Oncorhynchus tshawytscha*) as threatened or endangered Evolutionarily Significant Units (ESUs) under the Endangered Species Act (ESA) and to designate critical habitat concurrently with the listings. We have completed a comprehensive analysis of Oregon Coast (OC) and Southern Oregon and Northern California Coastal (SONCC) spring-run Chinook salmon populations in response to the petitions. Based on the best scientific and commercial data available, including the ESU configuration report, we have determined that listing the OC and SONCC spring-run Chinook salmon populations as threatened or endangered ESUs is not warranted. We determined that the OC and SONCC spring-run Chinook salmon populations do not meet the ESU Policy criteria to be considered ESUs separate from the OC and SONCC fall-run Chinook salmon populations and, therefore, do not meet the statutory definition of a species under the ESA. We also announce the availability of an ESU configuration report we prepared to inform our determination.

DATES: These findings were made on August 17, 2021.

ADDRESSES: The documents informing the 12-month findings, including the ESU configuration report (Ford *et al.* 2021), are available by submitting a request to the Assistant Regional Administrator, Protected Resources Division, West Coast Regional Office, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802, Attention: OC and SONCC spring-run Chinook salmon 12-month Findings. The documents are also available electronically at *https://www.fisheries.noaa.gov/protected-resource-regulations?title=&field_species_vocab_target_id=Chinook+Salmon&sort_by=field_relevant_date_value.*

FOR FURTHER INFORMATION CONTACT: Gary Rule, NMFS West Coast Region at *gary.rule@noaa.gov,* (503) 230–5424; or Heather Austin, NMFS Office of Protected Resources at *heather.austin@noaa.gov,* (301) 427–8422.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2019, the Secretary of Commerce received a petition from the Native Fish Society, Center for Biological Diversity, and Umpqua Watersheds (hereafter, the OC Petitioners) to list OC spring-run Chinook salmon as a threatened or endangered ESU under the ESA. Currently, OC spring-run Chinook salmon populations are part of the OC Chinook salmon ESU that combines populations of spring- and fall-run Chinook salmon and is not listed under the ESA. The OC Petitioners request that OC spring-run Chinook salmon be considered as a separate ESU and listed as threatened or endangered. The OC Petitioners also request the designation of critical habitat for OC spring-run Chinook salmon concurrent with ESA listing. On April 13, 2020, we published a positive 90-day finding (85 FR 20476) (RTID 0648–XW013) announcing that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. In our 90-day finding, we also announced the initiation of a status review to determine whether the spring-run populations of OC Chinook salmon constitute an ESU, and, if so, whether that OC spring-run Chinook salmon ESU is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range; and we requested information to inform our status review.

On May 4, 2020, the Secretary of Commerce received a petition from Richard K. Nawa (hereafter, the SONCC Petitioner, or Petitioners when referring collectively to the OC Petitioners and the SONCC Petitioner) to identify SONCC spring-run Chinook salmon as a separate ESU and list the ESU as threatened or endangered under the ESA. Currently, SONCC spring-run Chinook salmon populations are part of the SONCC Chinook salmon ESU that combines populations of spring- and fall-run Chinook salmon and is not listed under the ESA. The SONCC

Petitioner requests that SONCC spring-run Chinook salmon be considered as a separate ESU and listed as threatened or endangered. The SONCC Petitioner also requests the designation of critical habitat for SONCC spring-run Chinook salmon concurrent with ESA listing. On March 16, 2021, we published a positive 90-day finding (86 FR 14407) (RTID 0648–XW032) announcing that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. In our 90-day finding, we also announced the initiation of a status review to determine whether the spring-run populations of SONCC Chinook salmon constitute an ESU, and, if so, whether that SONCC spring-run Chinook salmon ESU is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range; and we requested information to inform our status review.

Listing Species Under the ESA

We are responsible for determining whether species under our jurisdiction are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a ''species'' under section 3 of the ESA (16 U.S.C. 1532), and then, if so, consider whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines species to include any subspecies of fish or wildlife or plants, and any distinct population segment (DPS) of any species of vertebrate fish or wildlife which interbreeds when mature. In 1991, we issued the Policy on Applying the Definition of Species Under the Endangered Species Act to Pacific Salmon (''ESU Policy''; 56 FR 58612; November 20, 1991), which explains that a Pacific salmon population unit will be considered a DPS, and hence a ''species'' under the ESA, if it represents an ''evolutionarily significant unit'' of the biological species. The two criteria for delineating an ESU are: (1) It is substantially reproductively isolated from other conspecific population units; and (2) it represents an important component in the evolutionary legacy of the species. The ESU Policy is used exclusively for delineating distinct population segments of Pacific salmon. A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, ''the Services'') policy clarifies the Services' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (''DPS Policy''; 61 FR 4722; February 7, 1996). In announcing this policy, the Services indicated that the ESU Policy for Pacific salmon was consistent with the DPS Policy and that NMFS would continue to use the ESU Policy for Pacific salmon.

Section 3 of the ESA further defines an endangered species as any species which is in danger of extinction throughout all or a significant portion of its range and a threatened species as one which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Thus, we interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future. In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

Section 4(a)(1) of the ESA also requires us to determine whether any species is endangered or threatened as a result of any of the following five factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence (16 U.S.C. 1533(a)(1)(A)–(E)). Section 4(b)(1)(A) of the ESA requires us to make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts being made by any state or foreign nation or political subdivision thereof to protect the species. In evaluating the efficacy of formalized domestic conservation efforts that have yet to be implemented or demonstrate effectiveness, we rely on the Services' joint Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE; 68 FR 15100; March 28, 2003).

Status Review

As part of our review of the Petitioners' requests to delineate the OC and SONCC spring-run Chinook salmon ESUs and list them as threatened or endangered under the ESA, we formed an expert panel (Panel) consisting of scientists from NMFS Northwest Fisheries Science Center and Southwest Fisheries Science Center. We asked the Panel to provide: (1) An analysis and review of the Petitioners' claims that OC and SONCC spring-run Chinook salmon populations should be considered ESUs; and, if any new ESUs were identified, (2) a description of the demographic risks (*i.e.,* abundance, productivity, spatial distribution and diversity) of the new ESUs. The first task was for the Panel to compile the best available scientific and commercial information relevant to re-evaluating the ESU structure of the OC and SONCC Chinook salmon ESUs, including information provided by the Petitioners. Specifically, the NMFS West Coast Region (WCR) requested the Panel use the criteria in the ESU Policy (56 FR 58612; November 20, 1991) to evaluate whether the OC and/or SONCC spring-run Chinook salmon populations should be considered ESUs. If the Panel concluded that one or both of the spring-run Chinook salmon populations should be considered a separate ESU, and the WCR concurred, the Panel would complete the second task of describing the demographic risks, and submit their report on both tasks to the WCR. If the Panel concluded, and WCR concurred, that there should not be a change in the current ESU structure for either ESU (*i.e.,* the spring-run Chinook salmon are part of the current ESU), the Panel would finalize their ESU structure findings and submit a report to the WCR. Under this second scenario, the Panel would not conduct a demographic risk analysis of the OC or SONCC spring-run Chinook salmon.

In order to complete their ESU analysis, the Panel considered a variety of scientific information from the literature, unpublished documents, and direct communications with researchers working on the genetics of Chinook salmon, as well as information submitted to NMFS in response to the 90-day findings on the petitions. Information that was not previously peer-reviewed was formally reviewed by the Panel. The Panel evaluated the information provided by the Petitioners and considered additional factors that may contribute to our understanding of the evolutionary significance of run-timing in Chinook salmon.

The Panel's draft report was subjected to independent peer review as required by the Office of Management and Budget (OMB) Final Information Quality Bulletin for Peer Review (M–05–03; December 16, 2004). The draft report was peer reviewed by three independent specialists selected from the academic and scientific community, with expertise in the genetic diversity and biology of salmonids. The peer

reviewers were asked to evaluate the adequacy, appropriateness, and application of data used in the report. Of the three peer reviewers, two responded with written comments and the third responded informally that they had no comments. All peer reviewer comments were addressed prior to dissemination and finalization of the draft report and publication of these 12-month findings.

We subsequently reviewed the report, its cited references, and peer review comments, and believe the report, which informs our 12-month findings, provides the best available scientific and commercial information on the OC and SONCC Chinook salmon ESUs. Much of the information discussed below is attributable to the report. However, in making the 12-month findings determination, we have independently applied the statutory provisions of the ESA, our regulations regarding listing determinations (50 CFR part 424), and our ESU Policy.

Previous Federal Actions

On March 9, 1998, following completion of a comprehensive status review of Chinook salmon (*O. tshawytscha*) populations in Washington, Oregon, Idaho, and California, we published a proposed rule to list seven Chinook salmon ESUs as threatened or endangered under the ESA (63 FR 11482). In this proposed rule, we identified the OC Chinook salmon ESU as comprised of coastal populations of spring- and fall-run Chinook salmon from the Elk River north to the mouth of the Columbia River (63 FR 11482, March 8, 1998). We did not propose to list the OC ESU of Chinook salmon under the ESA, concluding that the ESU was neither in danger of extinction nor likely to become endangered in the foreseeable future.

On September 16, 1999, following an updated status review for four Chinook salmon ESUs, we published a final rule to list two Chinook salmon ESUs as threatened under the ESA (64 FR 50394). In this 1999 final rule, we identified the SONCC Chinook salmon ESU as composed of coastal populations of spring- and fall-run Chinook salmon from Euchre Creek, Oregon, through the Lower Klamath River, California (inclusive) (64 FR 50394, September 16, 1999). After assessing information concerning Chinook salmon abundance, distribution, population trends, and risks, and after considering efforts being made to protect Chinook salmon, we determined in this 1999 final rule that the SONCC ESU of Chinook salmon did not warrant listing under the ESA.

Evolutionary Significant Unit Analysis

The Petitioners requested we delineate and list the OC and SONCC spring-run Chinook salmon populations as ESUs. As described above, the ESU Policy requires the consideration of two elements when deciding whether a population unit is an ESU: (1) It is substantially reproductively isolated from other conspecific population units; and (2) it represents an important component in the evolutionary legacy of the species. The first criterion, reproductive isolation, refers to restricted interbreeding among populations. Such isolation does not have to be absolute, but it must be strong enough to permit evolutionarily important differences to accrue in different population units. Information that can be useful in determining the degree of reproductive isolation includes documentation of fish straying from one population to another, recolonization rates of other populations, the efficacy of natural barriers to migration, and measurements of genetic differences between populations. Each of these types of information has its limitations. Identification of physical barriers to genetic exchange can help define the geographic extent of distinct populations but reliance on physical features alone can be misleading in the absence of supporting biological information. Documentation of straying between populations can provide information about the movements of individual fish but not the genetic consequences of migration. Furthermore, measurements of current straying or recolonization rates provide no direct information about the magnitude or consistency of such rates in the past. In this respect, data from the analysis of genetic variation between individuals or groups of fish can be very useful because they reflect levels of gene flow that have occurred over evolutionary time scales.

To be considered an ESU, the population must also represent an important component in the evolutionary legacy of the species. The evolutionary legacy of a species is the genetic variability that is a product of past evolutionary events and which represents the reservoir upon which future evolutionary potential depends. This second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. In other words, if the population became extinct, would this event represent a significant loss to the ecological/genetic diversity of the entire species? In making this determination, the following questions are relevant:

1. Is the population genetically distinct from other conspecific populations?
2. Does the population occupy unusual or distinctive habitat?
3. Does the population show evidence of unusual or distinctive adaptation to its environment?

Several types of information are useful in addressing these questions. Again, the strengths and limitations of the information will be considered in making the determination. Phenotypic/life-history traits, such as size, fecundity, and age and time of spawning may reflect local adaptations of evolutionary importance, but interpretation of these traits is complicated by their sensitivity to environmental conditions. Data from DNA analysis provides valuable insight into levels of overall genetic differentiation among populations but in many cases does not contain direct information regarding the extent of adaptive genetic differences. Habitat differences suggest the possibility for local adaptations but do not prove that such adaptations exist.

Methods for Analyzing Genetic Variation

Genetic variability within and between populations of Chinook salmon generally falls into two categories: Neutral and adaptive genetic variation. Most of the variation in a species' genome (the sum total of an organism's DNA) has no influence on survival or reproduction, and hence is considered to be selectively neutral. Examining patterns of selectively neutral variation among individuals in populations is very useful for understanding the relationships between those individuals and the histories of the populations. For example, neutral variation can be used to estimate the degree of gene flow or interbreeding among different populations, or the familial relationships among specific individuals. Adaptive genetic variation refers to genes or regulatory regions of the genome that have an effect on fitness (survival or reproduction). Adaptive genetic variation occurs when certain DNA sequence variants in a population help some members survive or reproduce better than others.

Reproductive Isolation Criterion

The 1998 and 1999 coastwide status reviews for Chinook salmon focused on patterns of neutral genetic variation and did not consider differences in run timing (adaptive genetic variation) alone to be indicative of substantial

reproductive isolation. This conclusion was due in part to the observed patterns of genetic variation, in which spring-run and fall-run fish spawning in the same or nearby rivers were genetically similar to each other and more similar to each other than to populations of either run type spawning in geographically distant rivers (Myers *et al.* 1998; Busby *et al.* 1999). The Panel reviewed subsequent genetic studies and found that they clearly confirm the earlier findings that, as a group, coastal spring-run Chinook salmon are not a distinct evolutionary lineage within the species, but rather share their evolutionary history and most of their genetic variation with the fall-run Chinook salmon spawning in the same and nearby rivers. In other words, the patterns of genetic variation coastwide indicate that spring-run Chinook salmon spawning in different rivers are generally more differentiated from each other than they are to co-occurring fall-run Chinook salmon.

Although this pattern is apparent when viewed on a coastwide scale, it is important to note that most of the coastwide Chinook salmon genetic studies conducted over the past two decades had few samples from the OC and SONCC areas. The Oregon Department of Fish and Wildlife identified up to nine rivers in the currently defined OC Chinook salmon ESU as having either spring-run populations or a spring-run or summer-run component to a population, but no genetics study has included more than three spring-run or summer-run population samples, and spring-run or summer-run samples have only been analyzed for a total of four OC river systems: Nehalem, Trask, Siletz, and Umpqua rivers. Following a review of the available information, the Panel found that some of the samples from co-occurring spring-run and fall-run populations in the OC areas do not necessarily seem to be closely genetically related. In particular, Umpqua River spring-run (sampled from the Rock Creek hatchery) tend to cluster with SONCC samples of both run types in a number of studies rather than with Umpqua fall-run samples or other OC fall-run samples (Myers *et al.* 1998; Waples *et al.* 2004; Seeb *et al.* 2007; Narum *et al.* 2008; Clemento *et al.* 2014; Hecht *et al.* 2015; note that some studies used the same set of samples so these data are not all independent). This pattern could indicate that Umpqua River spring-run Chinook salmon are in fact historically more closely related to SONCC Chinook salmon, or could be a result of past broodstock transfers from the Rogue River (and elsewhere) into the Rock Creek Hatchery (as summarized by Myers *et al.* 1998, Appendix D). In addition, fall-run samples from the Trask River Hatchery were more closely related to other OC fall-run samples than to Trask River Hatchery spring-run samples (Beacham *et al.* 2006). A similar pattern was seen in wild fall-run and spring-run Chinook salmon from the Siletz River (Davis *et al.* 2017). Extensive out-of-basin spring-run (and fall-run) Chinook salmon hatchery releases in the Trask River may be an explanation for this pattern. Similarly, although relatively few spring-run Chinook salmon hatchery releases have occurred in the Siletz River, that basin did receive more than 2 million Columbia River hatchery Chinook salmon releases between 1934 and 1952 (Myers *et al.* 1998, Appendix D). Additional sampling and genetic analysis of natural-origin fish across the range of return timing in multiple OC and SONCC rivers would help improve our understanding of the genetic relationships among OC and SONCC Chinook salmon populations. However, the available data does not indicate that spring-run Chinook salmon spawning in rivers on the Oregon Coast, as a group, form a distinct lineage separate from OC fall-run Chinook salmon.

The SONCC area is more thoroughly sampled, particularly with respect to the Rogue River basin. Within the SONCC ESU, it is apparent that the close genetic relationship between geographically proximate spring-run and fall-run Chinook salmon continues to be true when viewed at the within-ESU scale. In particular, in several studies, spring-run and fall-run samples from the Rogue River are more genetically related to each other than either are to samples from other rivers in the SONCC ESU. In other words, within the currently delineated SONCC Chinook salmon ESU, spring-run and fall-run fish spawning in the Rogue River appear to reproduce more with each other than with fall-run fish spawning in other rivers in the ESU. The Panel found that this pattern is similar to what has been reported in the Upper Klamath and Trinity Rivers (Anderson and Garza 2018), and is also apparent in the Puget Sound and Lower Columbia Chinook ESUs.

In addition to neutral genetic variation, adaptive genetic variation has been used to identify differences between individual fish or groups of fish. An example is the gene-region that has been associated with run-timing in Chinook salmon and steelhead, the GREB1L gene (otherwise referred to as the GREB1L region of the genome). Hess *et al.* (2016), Prince *et al.* (2017) and Thompson *et al.* (2019a) characterized the GREB1L region as two alleles (different forms) and three genotypes (different combinations of the two alleles): Individuals with two early run-timing alleles (early run homozygotes), individuals with two late run-timing alleles (late run homozygotes), and individuals with one allele for the early and one for the late run-timing (heterozygotes). There are five recent studies that have examined run-time-associated variants in the GREB1L region in OC and SONCC Chinook samples (Prince *et al.* 2017; Anderson & Garza 2018; Thompson *et al.* 2019a; O'Malley *et al.* 2020a; O'Malley *et al.* 2020b). These studies have found that heterozygotes are common, indicating that interbreeding between fish homozygous for the spring-run and fall-run variants is commonly occurring. This pattern has been extensively studied in the Rogue River basin of the SONCC ESU (Thompson *et al.* 2019; O'Malley *et al.* 2020a; O'Malley *et al.* 2020b), where researchers have obtained relatively large sample sizes of fish based on carcass surveys and surveys of captured live fish conducted throughout the run. For the OC, the only river that has been sampled using the GREB1L markers is the Siletz River (Anderson and Garza 2018; Thompson *et al.* 2020). That study also found substantial proportions of heterozygotes, particularly among fish that returned to the river early and were identified as spring-run (29 percent). A similarly high proportion of GREB1L region heterozygotes have been found in other coastal Chinook salmon ESUs (Upper Klamath River, Anderson and Garza 2018; Rogue River, Thompson *et al.* 2019a; Washington Coast, Thompson *et al.* 2019b).

The GREB1L region has been demonstrated to be highly associated with run timing in multiple populations of coastal Chinook salmon (*i.e.,* coastal spring-run Chinook salmon are homozygous for the early alleles, and fall-run Chinook are homozygous for the late alleles—Anderson and Garza 2018, Thompson *et al.* 2019a,b, O'Malley *et al.* 2020, Thompson *et al.* 2020). The finding of substantial proportions of heterozygotes provides evidence of contemporary interbreeding between alternative homozygotes at the GREB1L region. This, in turn, implies that mating among spring-run and fall-run (and likely intermediate timed) fish is common in multiple watersheds (reviewed by Ford *et al.* 2020). Analysis of recombination events (Anderson and Garza 2018, Thompson *et al.* 2020) also indicates that at least in the Upper

Klamath River, such interbreeding must have also occurred historically at some level, although the rate of interbreeding was not determined and could be lower than is seen now.

In both the OC and the SONCC ESUs, there is therefore strong evidence from GREB1L region markers that interbreeding between spring-run and fall-run Chinook salmon is common, at least for the two watersheds that have been studied to date (Rogue River, Siletz River). However, the data do not indicate whether the current levels of interbreeding occurred historically under more pristine conditions. Patterns of random genomic variation (indicative of population history) indicate that spring-run Chinook salmon in the OC and SONCC ESUs are, as a group, not substantially reproductively isolated from fall-run Chinook spawning in the OC and SONCC rivers. There is some indication that spring-run Chinook salmon in the Umpqua River may have somewhat reduced gene flow from other OC fall-run and spring-run Chinook salmon populations, but past hatchery practices may have also influenced this result. As a whole, however, the available data indicate that the spring-run portions of the OC and SONCC ESUs are not substantially reproductively isolated from the fall-run populations in the ESUs. Additional genetic sampling of fish throughout the period of migration in multiple populations, especially in the OC ESU, would be very helpful for further evaluating this question.

Evolutionary Legacy Criterion

The early run-timing trait is an important component of diversity within the Chinook salmon species. In particular, the trait allows Chinook salmon to access upstream habitats that are inaccessible to later returning fish in some years. Run time diversity as a whole is also expected to increase viability by broadening the portfolio of traits within a species or an ESU, which leads to increased resilience to environmental variation (Quinn *et al.* 2016). Recent reviews of ESU/DPS configurations of Chinook salmon (Anderson *et al.* 2018) and steelhead (Pearse *et al.* 2019) support this point, as does a recent expert workshop report (Ford *et al.* 2020) and the original coastwide status review of Chinook salmon (Myers *et al.* 1998). Recovery plans for Chinook salmon ESUs that contain populations with both spring-run and fall-run fish also emphasize the importance of recovering populations with both life-history strategies (Shared Strategy Development Committee 2007; Dornbush 2013; Pearse *et al.* 2019).

While recognizing the importance of run-timing variation to species and ESU viability, Myers *et al.* (1998) concluded that patterns of genetic variation and patterns of variation for other life-history traits indicated that coastal spring- and fall-run Chinook salmon shared the same recent evolutionary history. Coastal ESUs were identified based on concordant patterns of genetic, life-history, and geographic variation, with run-timing variation considered to be an important element of diversity within ESUs. Subsequent reports of Upper Klamath Trinity River Chinook salmon and Northern California steelhead have reached the same conclusion (Williams *et al.* 2013, Anderson *et al.* 2018, Pearse *et al.* 2019). Recent genetic studies have greatly increased our knowledge of the genetic basis of run-timing variation, but these studies do not change or invalidate the previous conclusion that spring-run and fall-run Chinook salmon in the currently delineated OC and SONCC Chinook salmon ESUs share a recent evolutionary legacy, and they are, on the whole, more genetically similar to each other than to populations in other ESUs. The two run types display similar characteristics in other life-history traits, and are genetically similar to each other due to a combination of recent common ancestry and ongoing interbreeding. Identifying a spring-run-only Chinook salmon ESU for either the OC or SONCC areas would therefore be inconsistent with our ESU policy, both because of high levels of interbreeding between spring-run and fall-run fish in these ESUs and because spring-run fish, as a group, in these ESUs do not form a distinct evolutionary lineage within the species.

Conclusions on the Evolutionarily Significant Unit Analysis

The Panel concluded, and the WCR concurred, that the best available information indicates that OC and SONCC spring-run Chinook salmon populations do not meet the reproductive isolation and genetic legacy criteria of the ESU Policy. The spring-run phenotype and the spring-run variant within the GREB1L chromosomal region are clearly an important part of the diversity within the Chinook salmon species, but the available data indicate that spring-run Chinook salmon in the OC and SONCC ESUs regularly interbreed with and share a recent evolutionary history throughout the vast majority of their genome with fall-run Chinook salmon in the same rivers.

Final Determination

Section 4(b)(1) of the ESA requires that NMFS make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have independently reviewed the best available scientific and commercial information, including the information provided in the petitions and public comments submitted on the 90-day findings (85 FR 20476, April 13, 2020; 86 FR 14407, March 16, 2021), the ESU configuration review report, and other published and unpublished information, and have consulted with species experts and individuals familiar with the OC and SONCC Chinook salmon ESUs.

Our determination set forth here is based on a synthesis and integration of the foregoing information. Based on our consideration of the best available scientific and commercial information, as summarized here and in the ESU configuration report, we conclude that OC and SONCC spring-run Chinook salmon populations do not constitute ESUs. Accordingly, OC and SONCC spring-run Chinook salmon populations do not meet the statutory definition of a species, and thus, OC and SONCC spring-run Chinook salmon populations do not warrant listing under the ESA.

This is a final action, and, therefore, we are not soliciting public comments.

References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 6, 2021.

Samuel D. Rauch, III,

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

[FR Doc. 2021–17211 Filed 8–16–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

NTIA 2021 Spectrum Policy Symposium

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, will host an online symposium on September 21, 2021, focusing on national spectrum policy development and the evolution of new techniques and technologies for federal spectrum management, including spectrum sharing.

DATES: The symposium will be held on September 21, 2021, from 9:00 a.m. to 3:00 p.m., Eastern Daylight Time (EDT).

ADDRESSES: The symposium will take place online, as a virtual event, and will be webcast through the NTIA website at *https://www.ntia.gov/other-publication/2021/2021-ntia-spectrum-policy-symposium-webcast.*

FOR FURTHER INFORMATION CONTACT: John Alden, Telecommunications Specialist, Office of Spectrum Management, NTIA, at (202) 482–8046 or *spectrumsymposium@ntia.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email: *press@ntia.gov.*

SUPPLEMENTARY INFORMATION: NTIA serves as the president's principal advisor on telecommunications policies pertaining to the nation's economic and technological advancement and establishes policies concerning use of the radio-frequency spectrum by federal agencies. See 47 U.S.C. 902(b)(2). NTIA is hosting an online symposium that will focus on developing, implementing and maintaining sustainable, national spectrum policies and spectrum management techniques. These will enable the United States to strengthen its global leadership role in the introduction of wireless telecommunications technology, services, and innovation, while also supporting the expansion of existing technologies and the nation's homeland security, national defense, and other critical government missions.

Speakers from the Department of Commerce and Congress have been invited to provide pre-recorded keynote remarks. Panelists are expected to include participants from the Federal Communications Commission, other federal agencies, and private sector and other non-government organizations. In the afternoon, NTIA's research laboratory, the Institute for Telecommunication Sciences, will host a preview of the 2022 International Symposium on Advanced Radio Technologies (ISART). The discussion will focus on areas where data could significantly benefit NTIA spectrum sharing feasibility analyses, with a goal for ISART 2022 to chart a roadmap and consensus for data-driven ways to expedite spectrum-sharing analyses and decision-making. Prior to the symposium event, NTIA will post detailed program information on its website: *www.ntia.gov.*

The symposium is open to the public and members of the press to view through a webcast available on the NTIA website. While it is not required, NTIA asks that online attendees provide registration information prior to the event. This information will include names, email addresses, and organizations (optional). Registration information, the agenda, meeting updates, if any, and other relevant documents will be available on NTIA's website.

The event webcast will be close-captioned. Individuals requiring special accommodations, such as sign language interpretation or other ancillary aids, should notify Mr. Alden at the contact information listed above at least ten (10) business days before the event.

Dated: August 12, 2021.

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2021–17620 Filed 8–16–21; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF EDUCATION

Reopening; Notice Inviting Applications for the Proprietary Institution Grant Funds for Students Program Under the Higher Education Emergency Relief Fund (HEERF); American Rescue Plan Act, 2021 (ARP)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: On May 13, 2021, the U.S. Department of Education (Department) published in the **Federal Register** a notice announcing the availability of funds and application deadlines for the ARP (a)(4) grant funding under the Proprietary Institution Grant Funds for Students Program, Assistance Listing Number (ALN) 84.425Q, as authorized under section 2003 of the ARP. The Department reopens, until September 10, 2021, the period for both submission of new ARP (a)(4) applications, and the Required Proprietary Institution Certification (RPIC) form for supplemental ARP (a)(4) awards.

DATES:

Deadline for Transmittal of Applications: Applications will be accepted on a rolling basis until September 10, 2021.

Deadline for Submission of Required Proprietary Institution Certification Form: September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Karen Epps, U.S. Department of Education, 400 Maryland Avenue SW, Room 250–64, Washington, DC 20202. Telephone: The Department of Education HEERF Call Center at (202) 377–3711. Email: *HEERF@ed.gov.* Please also visit our HEERF website at: *www2.ed.gov/about/offices/list/ope/arp.html.*

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: On May 13, 2021, we published in the **Federal Register** (86 FR 26210) a notice announcing availability of new ARP (a)(4) grant funds and application deadlines for grant funding under the Proprietary Institution Grant Funds for Students Program, ALN 84.425Q, as authorized under section 2003 of the ARP. Each application for an ARP (a)(4) grant must include—

- A complete SF–424;
- Supplemental Information for the SF–424;
- A complete RPIC form, available at *www2.ed.gov/about/offices/list/ope/arp.html;* and
- The Proprietary Institution Grant Funds for Students Certification and Agreement (C&A).

The Department also announced that it would award supplemental funds to eligible institutions that previously received a Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) section 314(a)(4) award, ALN 84.425Q, without requiring these institutions to submit a new application for funding. However, by August 11, 2021 and prior to receiving an award, eligible institutions were required to submit an RPIC form signed by the institution's president or chief executive officer and any owners with an ownership interest in the institution of 25 percent or more. The Department reopens the period, until September 10, 2021, for transmittal of both: (1) New ARP (a)(4) applications, and (2) RPIC forms for institutions to receive

supplemental ARP (a)(4) awards. The Department will accept complete applications submitted at any time prior to the deadline on September 10, 2021. All other requirements and conditions stated in the notice announcing availability of funds remain the same.

Program Authority: Section 2003 of the ARP and section 314 of the CRRSAA.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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 published by this Department in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free through a link 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.

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2021–17642 Filed 8–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2021–IES–0118]

Request for Information on the Department of Education's Fiscal Year (FY) 2022–2026 Learning Agenda

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Request for information.

SUMMARY: The Foundations for Evidence-Based Policymaking Act of 2018 and implementing guidance require Federal agencies to develop an evidence-building plan, referred to as a Learning Agenda, to identify and address questions relevant to agency programs, policies, and regulations. Through this request for information (RFI), we seek public input to help us identify priority questions to guide our evidence-building activities.

DATES: We must receive your comments by September 16, 2021.

ADDRESSES: Submit your response to this RFI through the Federal eRulemaking Portal. We will not accept submissions by postal mail, commercial mail, hand delivery, fax, or email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''FAQ'' tab.

Privacy Note: The Department's policy for comments received from members of the public is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available. We encourage, but do not require, that each respondent include his or her name, title, institution or affiliation, and the name, title, mailing and email addresses, and telephone number of a contact person for his or her institution or affiliation, if any.

FOR FURTHER INFORMATION CONTACT: Matthew Soldner, Commissioner, National Center for Education Evaluation and Regional Assistance & Evaluation Officer, Institute of Education Sciences, U.S. Department of Education, 400 Maryland Avenue SW, Room 4160, Potomac Center Plaza, Washington, DC 20202–7240. Telephone: (202) 245–8385. Email: *Matthew.Soldner@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:

Background

The Foundations for Evidence-Based Policymaking Act of 2018 [1] requires Federal agencies to develop ''a systematic plan for identifying and addressing policy questions relevant to the programs, policies, and regulations of the agency.'' [2] This plan, referred to as a Learning Agenda, offers the opportunity for the Department to develop evidence in service of achieving its strategic goals and objectives, answering important short- and long-term strategic and operational questions. We seek public comments to inform the development of our FY 2022–2026 Learning Agenda.

This is a request for information only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice inviting applications. This RFI does not commit the Department to contract for any supply or service whatsoever. Further, we are not seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI. The documents and information submitted in response to this RFI will not be returned.

We will review every comment, and, as described above, electronic comments in response to this RFI will be publicly available on the Federal eRulemaking Portal at *www.regulations.gov.* Please note that IES will not directly respond to comments.

Solicitation of Comments

The Department intends to focus its FY 2022–2026 evidence-building activities on six areas that are related to achieving the Department's education mission and are consistent with the Secretary's vision for American education.[3] We list each area below and invite stakeholders who are interested in the work of the Department for their input on (1) the most important questions about which evidence should be built in each area; (2) specific evidence-building activities that should be undertaken, either by the Department or by others with the capacity to do so, to answer those questions; and (3) areas not listed below to which the Department should pay particular attention as it refines its FY 2022–2026 Learning Agenda during this and future fiscal years. These six areas of the Learning Agenda are—

1. Addressing the impact of COVID–19 on students, schools and institutions of higher education, educators, and their communities;

[1] *www.govinfo.gov/content/pkg/PLAW-115publ435/html/PLAW-115publ435.htm.*

[2] 5 U.S.C. 312(a).

[3] For more background, see *www.federalregister.gov/documents/2021/06/30/2021-14003/proposed-priorities-and-definitions-secretarys-supplemental-priorities-and-definitions-for.*

2. Promoting equity in student access to educational resources, opportunities, and welcoming, safe, and inclusive environments;
3. Meeting student social, emotional, mental health, basic, and academic needs;
4. Increasing postsecondary education access, affordability, completion, and post-enrollment success;
5. Supporting a well-prepared diverse educator workforce and their professional growth to strengthen student learning; and
6. Improving Federal student aid programs.

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 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.

Matthew Soldner,

Commissioner, National Center for Education Evaluation and Regional Assistance & Agency Evaluation Officer.

[FR Doc. 2021–17625 Filed 8–16–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Wednesday, September 22, 2021; 9:00 a.m.–4:30 p.m., Thursday, September 23, 2021; 9:00 a.m.–4:30 p.m.

ADDRESSES: Online Virtual Meeting. To receive the meeting access information and call-in number, please contact the Alternate Deputy Designated Federal Officer, Gary Younger, at the telephone number or email listed below by five days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Gary Younger, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Hanford Office of Communications, Richland Operations Office, P.O. Box 550, Richland, WA 99354; Phone: (509) 372–0923; or Email: *gary.younger@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

Discussion Topics

Tri-Party Agreement Agencies' Updates
Hanford Advisory Board Committee Reports
Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gary Younger at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or within five business days after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gary Younger. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available at the following website: *http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.*

Signed in Washington, DC, on August 11, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–17593 Filed 8–16–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Wednesday, October 20, 2021; 9:00 a.m.–4:30 p.m.

ADDRESSES: Online Virtual Meeting. To receive the meeting access information and call-in number, please contact the Alternate Deputy Designated Federal Officer, Gary Younger, at the telephone number or email listed below by five days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Gary Younger, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Hanford Office of Communications, Richland Operations Office, P.O. Box 550, Richland, WA 99354; Phone: (509) 372–0923; or Email: *gary.younger@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

Discussion Topic
Committee Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gary Younger at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or within five business days after the

meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gary Younger. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available at the following website: *http://www.hanford.gov/page.cfm/hab/FullBoardMeetingInformation.*

Signed in Washington, DC, on August 11, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–17594 Filed 8–16–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of in-person/virtual hybrid meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Thursday, September 16, 2021; 5:30 p.m.–7:00 p.m.

ADDRESSES: This hybrid meeting will be conducted in person for Board members, Department of Energy (DOE) representatives and support staff, and virtually for all other participants. Members of the public will observe the meeting via YouTube at this link: *https://youtu.be/ZrExNypGo5g.*

Board members, DOE representatives and support staff will participate in-person at: West Kentucky Community and Technical College, Emerging Technology Building, Room 222, 5100 Alben Barkley Drive, Paducah, KY 42001.

Board liaisons and supporting contractors will participate via virtual platforms.

FOR FURTHER INFORMATION CONTACT: Eric Roberts, Board Support Manager, by Phone: (270) 554–3004 or Email: *eric@pgdpcab.org.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Review of Agenda
- Administrative Issues
- Reading of Public Comments

Public Participation: The in-person/online virtual hybrid meeting is open to the public and can be observed at *https://youtu.be/ZrExNypGo5g.* Written statements may be filed with the Board either before or after the meeting as there will not be opportunities for live public comment during this online virtual meeting. Comments received by no later than 5:00 p.m. CST on Monday, September 10, 2021, will be read aloud during the meeting. Comments will also be accepted after the meeting, by no later than 5:00 p.m. CST on Friday, September 24, 2021. Please submit comments to the Paducah Board Support Manager at the aforementioned email address. Please put ''Public Comment'' in the subject line. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should email them as directed above.

Minutes: Minutes will be available by writing or calling Eric Roberts, Board Support Manager, Emerging Technology Center, Room 221, 4810 Alben Barkley Drive, Paducah, KY 42001; Phone: (270) 554–3004. Minutes will also be available at the following website: *https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials.*

Signed in Washington, DC, on August 11, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–17592 Filed 8–16–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2635–000]

Hecate Energy Johanna Facility LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Solar Hecate Energy Johanna Facility LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 31, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17636 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR21–59–000.
Applicants: Arcadia Gas Storage, LLC.
Description: Submits tariff filing per 284.123(b),(e)/: MBR Authority Informational Notice, Compliance Dkt. Nos. PR09–15–000, PR16–9–000 to be effective N/A.
Filed Date: 8/10/2021.
Accession Number: 20210810–5033.
Comments/Protests Due: 5 p.m. ET 8/31/21.

Docket Numbers: RP21–1023–000.
Applicants: Pine Prairie Energy Center, LLC.
Description: Compliance filing: Informational Filing Re MBR Authority, Compliance Dkt. Nos. CP04–379 & CP11—to be effective N/A.
Filed Date: 8/10/21.
Accession Number: 20210810–5008.
Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: RP21–1024–000.
Applicants: SG Resources Mississippi, L.L.C.
Description: Compliance filing: Informational Filing Re MBR Authority, Compliance Dkt. No. CP02–229 to be effective N/A.
Filed Date: 8/10/21.
Accession Number: 20210810–5009.
Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: RP21–1025–000.
Applicants: Cadeville Gas Storage LLC.
Description: Compliance filing: MBR Authority Informational Notice, Compliance Dkt. No. CP10–16–000 to be effective N/A.
Filed Date: 8/10/21.
Accession Number: 20210810–5035.
Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: RP21–1026–000.
Applicants: Monroe Gas Storage Company, LLC.
Description: Compliance filing: MBR Authority Info Notice, Compliance Dkt. Nos. CP07–406/407/408–000, RP16–591–000 to be effective N/A.
Filed Date: 8/10/21.
Accession Number: 20210810–5036.
Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: RP21–1027–000.
Applicants: Perryville Gas Storage LLC.
Description: Compliance filing: MBR Authority Informational Notice, Compliance Dkt. Nos. CP09–418–000, CP11–159–000 to be effective N/A.
Filed Date: 8/10/21.
Accession Number: 20210810–5037.
Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: RP21–1028–000.
Applicants: Southwest Gas Storage Company.
Description: § 4(d) Rate Filing: Add Creditworthiness and Misc Housekeeping to be effective 9/10/2021.
Filed Date: 8/10/21.
Accession Number: 20210810–5073.
Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: RP21–1029–000.
Applicants: Southeast Supply Header, LLC.
Description: § 4(d) Rate Filing: FOSAs—Signature Block Modifications to be effective 9/10/2021.
Filed Date: 8/10/21.
Accession Number: 20210810–5089.
Comment Date: 5 p.m. ET 8/23/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17631 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21–13–000]

Climate Change, Extreme Weather, and Electric System Reliability; Notice Inviting Post-Technical Conference Comments

On June 1, 2021 and June 2, 2021, the Federal Energy Regulatory Commission (Commission) staff convened a technical conference to discuss issues surrounding the threat to electric system reliability posed by climate change and extreme weather events.

All interested persons are invited to file post-technical conference comments to address the questions raised below and, if they wish, any other issues raised during the technical conference or identified in the Supplemental Notices of Technical Conference issued March 15 and May 21, 2021. Commenters need not answer all of the questions, but commenters are encouraged to organize responses using the numbering and order in the below questions. Commenters are also invited to reference material previously filed in this docket but are encouraged to avoid repetition or replication of their previous comments. Comments must be submitted on or before 45 days from the date of this Notice.

Comments may be filed electronically via the internet.[1] Instructions are available on the Commission's website *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, submissions sent via the U.S. Postal Service must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For more information about this Notice, please contact:

Rahim Amerkhail (Technical Information), Office of Energy Policy and Innovation, (202) 502–8266, *Rahim.Amerkhail@ferc.gov*

Michael Haddad (Legal Information), Office of the General Counsel, (202) 502–8088, *Michael.Haddad@ferc.gov*

[1] *See* 18 CFR 385.2001(a)(1)(iii) (2020).

Dated: August 11, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–17626 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–93–000]

Duke Energy Florida, LLC v. Florida Power & Light Co. and Florida Power & Light Co. d/b/a Gulf Power; Notice of Complaint

Take notice that on August 6, 2021, pursuant to sections 206, 306, and 309 of the Federal Power Act (FPA), 16 U.S.C. 824e, 825e, and 825h and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Duke Energy Florida, LLC (Complainant) filed a formal complaint against Florida Power & Light Co. (FPL) and separately, Florida Power & Light Co. d/b/a Gulf Power, a functionally separate operating division of FPL (collectively, Respondents), alleging that the Respondents have violated the FPA, their open access transmission tariffs, and Order No. 890 [1] by engaging in unjust, unreasonable, unduly discriminatory and preferential practices in connection with four requests for transmission service., all as more fully explained in its complaint.

The Complainant certify that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov,* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 7, 2021.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17640 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

[1] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12266 (Mar. 15, 2007), 118 FERC ¶ 61,119, *order on reh'g,* Order No. 890–A, 73 FR 2984 (Jan. 16, 2008), 121 FERC ¶ 61,297 (2007), *order on reh'g,* Order No. 890–B, 123 FERC ¶ 61,299 (2008), *order on reh'g,* Order No. 890–C, 126 FERC ¶ 61,228, *order on clarification,* Order No. 890–D, 129 FERC ¶ 61,126 (2009).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–91–000]

PJM Interconnection, L.L.C.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On August 10, 2021, the Commission issued an order in Docket No. EL21–91–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether the existing rates for generating units providing Black Start Service based on a federal corporate income tax rate that pre-dates the Tax Cuts and Jobs Act of 2017, remain just and reasonable. *PJM Interconnection, L.L.C.,* 176 FERC ¶ 61,080 (2021).

The refund effective date in Docket No. EL21–91–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL21–91–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2020), within 21 days of the date of issuance of the order.

The filings are accessible in the Commission's eLibrary system on the Commission's home page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17633 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–216–000.

Applicants: Caddo Wind, LLC.

Description: Self-Certification of EG or FC of Caddo Wind, LLC.

Filed Date: 8/11/21.

Accession Number: 20210811–5092.

Comment Date: 5 p.m. ET 9/1/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–1111–002.

Applicants: Alabama Power Company.

Description: Tariff Amendment: Response to Second Deficiency Letter regarding Southeast EEM Agreement to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5101.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1112–002.

Applicants: Dominion Energy South Carolina, Inc.

Description: Tariff Amendment: SEEM Concurrence Deficiency Filing to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5097.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1114–002.

Applicants: Louisville Gas and Electric Company.

Description: Tariff Amendment: Southeast EEM Response to Second Deficiency Letter to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5086.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1115–002.

Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.

Description: Tariff Amendment: Duke Energy Carolinas, LLC submits tariff filing per 35.17(b): Response to Second Deficiency Letter Regarding Southeast EEM Agreement to be effective 12/31/9998.

Filed Date: 8/11/21.

Accession Number: 20210811–5093.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1116–002.

Applicants: Duke Energy Carolinas, LLC.

Description: Tariff Amendment: DEC—Southeast Energy Exchange Market Concurrence Second Deficiency Response to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5095.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1117–002.

Applicants: Duke Energy Progress, LLC.

Description: Tariff Amendment: DEP—Southeast Energy Exchange Market Concurrence Second Deficiency Response to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5100.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1118–002.

Applicants: Louisville Gas and Electric Company.

Description: Tariff Amendment: Southeast EEM Response to Second Deficiency Letter LGEKU OATT to be effective 12/31/9998.

Filed Date: 8/11/21.

Accession Number: 20210811–5084.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1119–002.

Applicants: Georgia Power Company.

Description: Tariff Amendment: Response to Second Deficiency Letter regarding Southeast EEM Agreement to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5106.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1120–002.

Applicants: Kentucky Utilities Company.

Description: Tariff Amendment: Southeast EEM Response to Second Deficiency Letter to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5087.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1121–002.

Applicants: Mississippi Power Company.

Description: Tariff Amendment: Response to Second Deficiency Letter regarding Southeast EEM Agreement to be effective 10/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5107.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1125–002.

Applicants: Alabama Power Company.

Description: Tariff Amendment: Response to Second Deficiency Letter regarding Southeast EEM Agreement to be effective 12/31/9998.

Filed Date: 8/11/21.

Accession Number: 20210811–5105.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–1128–002.

Applicants: Dominion Energy South Carolina, Inc.

Description: Tariff Amendment: Attach P and P–1—NEETS Additional Info to be effective 12/31/9998.

Filed Date: 8/11/21.

Accession Number: 20210811–5098.

Comment Date: 5 p.m. ET 8/23/21.

Docket Numbers: ER21–2643–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2829R6 Midwest Energy/Evergy Kansas Central Meter Agent Agr to be effective 8/1/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5005.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2644–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-BRP Carina BESS Generation Interconnection Agreement to be effective 8/3/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5025.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2645–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Helena Wind 1st A&R Generation Interconnection Agreement to be effective 8/3/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5031.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2646–000.

Applicants: Alabama Power Company.

Description: Tariff Amendment: Pulaski County Solar 2 (Hawkinsville 1 Solar) LGIA Termination Filing to be effective 8/11/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5055.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2647–000.

Applicants: Alabama Power Company.

Description: Tariff Amendment: Pulaski County Solar 2 (Hawkinsville 2 Solar) LGIA Termination Filing to be effective 8/11/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5057.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2648–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Paper Shell Solar 1 LGIA Filing to be effective 7/28/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5058.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2649–000.

Applicants: Macquarie Energy LLC.

Description: Macquarie Energy LLC submits Explanation for Bilateral Spot Sales In Western Electricity Coordinating Council.

Filed Date: 8/6/21.

Accession Number: 20210806–5261.

Comment Date: 5 p.m. ET 8/27/21.

Docket Numbers: ER21–2650–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA 45MG 8ME LLC Aratina Solar Center 2 SA No. 271 to be effective 8/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5065.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2651–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 269 to be effective 8/12/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5083.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2652–000.

Applicants: Caddo Wind, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 10/11/2021.

Filed Date: 8/11/21.

Accession Number: 20210811–5089.
Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2653–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amend GIA & DSA (SA 667–668) Wind Stream Operations, LLC & Terminate 6 Agmts to be effective 10/11/2021.
Filed Date: 8/11/21.
Accession Number: 20210811–5099.
Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2654–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–08–11_SA 3391 Ameren IL-Maple Flats Solar Energy Center (J813) to be effective 8/2/2021.
Filed Date: 8/11/21.
Accession Number: 20210811–5118.
Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21–2655–000.
Applicants: Southwestern Public Service Company.
Description: § 205(d) Rate Filing: SPS-Llano-LGIA-Second Amnd–101–0.0.0 to be effective 10/10/2021.
Filed Date: 8/11/21.
Accession Number: 20210811–5169.
Comment Date: 5 p.m. ET 9/1/21.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–27–000.
Applicants: Alliant Energy Corporate Services, Inc., Interstate Power & Light Company, Wisconsin Power & Light Co.
Description: Application of Alliant Energy Corporate Services, Inc., on Behalf of its Electric Utility Affiliates, to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.
Filed Date: 8/6/21.
Accession Number: 20210806–5260.
Comment Date: 5 p.m. ET 9/3/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17634 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2638–000]

SR Perry, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SR Perry, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 31, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17635 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2634–000]

Solar Star Lost Hills, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Solar Star Lost Hills, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 31, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17641 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2641–000]

Quinebaug Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Quinebaug Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 31, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 11, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17637 Filed 8–16–21; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK

[Public Notice: 2021–6020]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Banks of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection of information is necessary to determine eligibility of the applicant for EXIM assistance.

DATES: Comments must be received on or before October 18, 2021 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 10–02) or by email *tara.pender@exim.gov,* or by mail to Tara Pender, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC. The application tool can be reviewed at: *https://www.exim.gov/sites/default/files/pub/pending/eib10_02.pdf.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please Tara Pender. 202–565–3655.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 10–02 Application for Short-Term Express Credit Insurance Policy.

OMB Number: 3048–0031.

Type of Review: Renewal.

Need and Use: This form is used by an exporter (or broker acting on its behalf) in order to obtain approval for coverage of the repayment risk of export sales. The information received allows EXIM staff to make a determination of the eligibility of the applicant and the creditworthiness of one of the applicant's foreign buyers for EXIM assistance under its programs.

This is the application form for use by small U.S. businesses with limited export experience. Companies that are eligible to use the Express policy will need to answer approximately 20 questions and sign an acknowledgement

of the certifications that appear on the reverse of the application form. This program does not provide discretionary credit authority to the U.S. exporter, and therefore the financial and credit information needs are minimized.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 500.

Estimated Time per Respondent: 0.25 hours.

Annual Burden Hours: 125 hours.

Frequency of Reporting of Use: Once per year.

Government Expenses:

Reviewing time per year: 1,000 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $42,500 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $51,000.

Bassam Doughman,

IT Specialist.

[FR Doc. 2021–17643 Filed 8–16–21; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2021–6021]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Banks of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The Application for Short-Term Multi-Buyer Export Credit Insurance Policy will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its insurance program. Export-Import Bank customers will be able to submit this form on paper or electronically.

DATES: Comments must be received on or before October 18, 2021 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 10–02) or by email *tara.pender@exim.gov,* or by mail to Tara Pender, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC. The application tool can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib92-50.pdf.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please Tara Pender. 202–565–3655.

SUPPLEMENTARY INFORMATION: This collection of information is necessary, pursuant to 12 U.S.C. Sec. 635(a)(1), to determine eligibility of the applicant for EXIM assistance.

Title and Form Number: EIB 92–50 Application for Short-Term Multi-Buyer Export Credit Insurance Policy.

OMB Number: 3048–0023.

Type of Review: Renewal.

Need and Use: The Application for Short-Term Multi-Buyer Export Credit Insurance Policy will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its insurance program.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 285.

Estimated Time per Respondent: 0.5 hours.

Annual Burden Hours: 143.

Frequency of Reporting of Use: As needed.

Government Reviewing Time per Year:

Reviewing time per year: 285 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $12,113 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $14,535.

Bassam Doughman,

IT Specialist.

[FR Doc. 2021–17646 Filed 8–16–21; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2021–6022]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The purpose of this collection is to gather information necessary to make a determination of eligibility of a transaction for EXIM assistance under its medium-term guarantee and insurance program.

DATES: Comments should be received on or before October 18, 2021 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 10–02) or by email *tara.pender@exim.gov,* or by mail to Tara Pender, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC. The application tool can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib03-02_0.pdf.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please Tara Pender. 202–565–3655.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 03–02 Application for Medium Term Insurance or Guarantee.

OMB Number: 3048–0014.

Type of Review: Renewal.

Need and Use: The purpose of this collection is to gather information necessary to make a determination of eligibility of a transaction for EXIM assistance under its medium-term guarantee and insurance program.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 400.

Estimated Time per Respondent: 2 hours.

Annual Burden Hours: 800 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:

Reviewing Time per Year: 700 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $29,750 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $35,700.

Bassam Doughman,

IT Specialist.

[FR Doc. 2021–17649 Filed 8–16–21; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2021–6019]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Comments must be received on or before October 18, 2021, to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 92–36) or by email *tara.pender@exim.gov,* or by mail to Tara Pender, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC 20571. The application tool can be reviewed at: *https://www.exim.gov/sites/default/files/pub/pending/eib92-36.pdf.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please Tara Pender. 202–565–3655.

SUPPLEMENTARY INFORMATION: This collection of information is necessary, pursuant to 12 U.S.C. Sec. 635(a)(1), to determine eligibility of the applicant for EXIM assistance.

Title and Form Number: EIB 92–36 Application for Issuing Bank Credit Limit (IBCL) Under Lender or Exporter-Held Policies.

OMB Number: 3048–0016.

Type of Review: Renewal.

Need and Use: This form is used by an insured exporter or lender (or broker acting on its behalf) in order to obtain approval for coverage of the repayment risk of an overseas bank. The information received allows EXIM staff to make a determination of the creditworthiness of the foreign bank and the underlying export sale for EXIM assistance under its programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 600.

Estimated Time per Respondent: 1.2 hours.

Annual Burden Hours: 720 hours.

Frequency of Reporting of Use: As needed.

Government Expenses:

Reviewing time per year: 600 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $25,500 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $30,600.

Bassam Doughman,

IT Specialist.

[FR Doc. 2021–17645 Filed 8–16–21; 8:45 am]

BILLING CODE 6690–01–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, Washington, DC 20551–0001, not later than September 16, 2021.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Ottawa Bancorp, Inc., Ottawa, Illinois;* to become a bank holding company upon the conversion of its wholly-owned subsidiary, Ottawa Savings Bank, Ottawa, Illinois, from a federally-chartered savings association to a state-chartered bank.

Board of Governors of the Federal Reserve System, August 12, 2021.

Ann Misback,

Secretary of the Board.

[FR Doc. 2021–17630 Filed 8–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Community Preventive Services Task Force (CPSTF)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention within the Department of Health and Human Services announces the next meeting of the Community Preventive Services Task Force (CPSTF) on October 20–21, 2021.

DATES: The meeting will be held on Wednesday, October 20, 2021, from 10:00 a.m. to 5:00 p.m. EDT, and Thursday, October 21, 2021, from 10:00 a.m. to 5:00 p.m. EDT.

ADDRESSES: The meeting will be held via web conference.

FOR FURTHER INFORMATION CONTACT: Arielle Gatlin, Office of the Associate Director for Policy and Strategy; Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–V–25–5, Atlanta, GA 30329, phone: (404) 498–4512, email: *CPSTF@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Meeting Accessibility: The CPSTF meeting will be held virtually via web conference. CDC will send web conference information to registrants upon receipt of their registration. All meeting attendees must register by October 13, 2021 to receive the web conference information for the October meeting. CDC will email web conference information from the *CPSTF@cdc.gov* mailbox.

To register for the meeting, individuals should send an email to *CPSTF@cdc.gov* and include the following information: name, title, organization name, organization address, phone, and email.

Public Comment: Individuals who would like to make public comments during the October meeting must state their desire to do so with their registration and provide their name and organizational affiliation and the topic to be addressed (if known). The requestor will receive instructions for the public comment process for this virtual meeting after the request is received. A public comment period follows the CPSTF's discussion of each systematic review and will be limited, up to three minutes per person. Public comments will become part of the meeting summary.

Background on the CPSTF: The CPSTF is an independent, nonfederal panel whose members are appointed by the CDC Director. CPSTF members represent a broad range of research, practice, and policy expertise in prevention, wellness, health promotion, and public health. The CPSTF was convened in 1996 by the Department of Health and Human Services (HHS) to identify community preventive programs, services, and policies that increase health, longevity, save lives

and dollars, and improve Americans' quality of life. CDC is mandated to provide ongoing administrative, research, and technical support for the operations of the CPSTF. During its meetings, the CPSTF considers the findings of systematic reviews of existing research and practice-based evidence and issues recommendations. CPSTF recommendations are not mandates for compliance or spending. Instead, they provide information about evidence-based options that decision makers and stakeholders can consider when they are determining what best meets the specific needs, preferences, available resources, and constraints of their jurisdictions and constituents. The CPSTF's recommendations, along with the systematic reviews of the evidence on which they are based, are compiled in the *The Community Guide.*

Matters proposed for discussion: The agenda will consist of deliberation on systematic reviews of literature and is open to the public. Topics will include Cancer Screening; HIV Prevention; Nutrition, Physical Activity, and Obesity; Social Determinants of Health, and Violence Prevention. Information regarding the start and end times for each day, and any updates to agenda topics, will be available on the Community Guide website (*www.thecommunityguide.org*) closer to the date of the meeting.

The meeting agenda is subject to change without notice.

Dated: August 11, 2021.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9131–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—April Through June 2021

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This quarterly notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from April through June 2021, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone No.
I CMS Manual Instructions	Ismael Torres	(410) 786–1864
II Regulation Documents Published in the **Federal Register**	Terri Plumb	(410) 786–4481
III CMS Rulings	Tiffany Lafferty	(410) 786–7548
IV Medicare National Coverage Determinations	Wanda Belle, MPA	(410) 786–7491
V FDA-Approved Category B IDEs	John Manlove	(410) 786–6877
VI Collections of Information	William Parham	(410) 786–4669
VII Medicare-Approved Carotid Stent Facilities	Sarah Fulton, MHS	(410) 786–2749
VIII American College of Cardiology-National Cardiovascular Data Registry Sites	Sarah Fulton, MHS	(410) 786–2749
IX Medicare's Active Coverage-Related Guidance Documents	JoAnna Baldwin, MS	(410) 786–7205
X One-time Notices Regarding National Coverage Provisions	JoAnna Baldwin, MS	(410) 786–7205
XI National Oncologic Positron Emission Tomography Registry Sites	David Dolan, MBA	(410) 786–3365
XII Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	David Dolan, MBA	(410) 786–3365
XIII Medicare-Approved Lung Volume Reduction Surgery Facilities	Sarah Fulton, MHS	(410) 786–2749
XIV Medicare-Approved Bariatric Surgery Facilities	Sarah Fulton, MHS	(410) 786–2749
XV Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	David Dolan, MBA	(410) 786–3365
All Other Information	Annette Brewer	(410) 786–6580

SUPPLEMENTARY INFORMATION:

I. Background

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) Furnishing information to Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, state governments, state Medicaid agencies, state survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners (NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is available on the CMS website or the appropriate data registries that are used as our resources. This is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the website list provides more timely access for beneficiaries, providers, and suppliers. We also believe the website offers a

more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and ''real time'' accessibility. In addition, many of the websites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the website. These listservs avoid the need to check the website, as notification of updates is automatic and sent to the subscriber as they occur. If assessing a website proves to be difficult, the contact person listed can provide information.

III. How To Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at *http://www.cms.gov/manuals.*

The Director of the Office of Strategic Operations and Regulatory Affairs of the Centers for Medicare & Medicaid Services (CMS), Kathleen Cantwell, having reviewed and approved this document, authorizes Lynette Willson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: August 11, 2021.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare and Medicaid Services.

BILLING CODE 4120–01–P

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: August 12, 2020 (85 FR 48691), November 4, 2020 (85 FR 70168), March 17, 2021 (86 FR 14629) and May 3, 2021 (86 FR 23373). We are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the website to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (April through June 2021)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How to Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency's official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the Internet-only manual (IOM) or retired. Pub 15-1, Pub 15-2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703-605-6050). You can download copies of the listed material free of charge at: http://cms.gov/manuals.

How to Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at http://www.gpo.gov/libraries/

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the manual for 2021 Durable Medical Equipment Prosthetics, Orthotics, and Supplies Healthcare Common Procedure Coding System (HCPCS) Code Jurisdiction List, use (CMS-Pub. 100-04) Transmittal No. 10737.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual.

Fee-For Service Transmittal Numbers

Please Note: Beginning Friday, March 20, 2020, there will be the following change regarding the Advance Notice of Instructions due to a CMS internal process change. Fee-For Service Transmittal Numbers will no longer be determined by Publication. The Transmittal numbers will be issued by a single numerical sequence beginning with Transmittal Number 10000.

For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our website at www.cms.gov/Manuals.

Transmittal Number	Manual/Subject/Publication Number
	Medicare General Information (CMS-Pub. 100-01)
10757	Physician Certification and Recertification of Services Manual Update to Incorporate Allowed Practitioners into Home Health Policy Certification and Recertification by Physicians and Allowed Practitioners for Home Health Services Content of the Physician's or Allowed Practitioner's Certification
10783	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10784	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
	Medicare Benefit Policy (CMS-Pub. 100-02)
10729	Updates to Medicare Benefit Policy Manual for Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Services (Manual Updates Only) of Acronyms Care Management Services General Care Management Services – Chronic Care
10738	Home Health Manual Update to Implement Calendar Year 2021 Request for Anticipated Payment Policies and Corrections to Certification and Split

	Percentage Payment Approach to the 30-Day Period Unit of Payment Requirements for Submission of "No-Pay" RAPs Who May Sign the Certification or Recertification? Recertification for Home Health Beneficiaries
Medicare National Coverage Determination (CMS-Pub. 100-03)	
10796	National Coverage Determination (NCD 110.24): Chimeric Antigen Receptor (CAR) T-cell Therapy - This CR Rescinds and Fully Replaces CR 11783. Chimeric Antigen Receptor (CAR) T-cell therapy
10797	National Coverage Determination (NCD) Removal Extracorporeal Immunoadsorption (ECI) Using Protein A Columns Electrosleep Therapy Implantation of Gastrointestinal Reflux Devices Abarelix for the Treatment of Prostate Cancer Magnetic Resonance Spectroscopy Positron Emission Tomography (PET) Scans FDG PET for Inflammation and Infection
10818	National Coverage Determination (NCD) 210.3 - Screening for Colorectal Cancer (CRC)-Blood-Based Biomarker Tests Colorectal Cancer Screening Tests
10838	National Coverage Determination (NCD) Removal Extracorporeal Immunoadsorption (ECI) Using Protein A Columns Electrosleep Therapy Implantation of Gastrointestinal Reflux Devices Abarelix for the Treatment of Prostate Cancer Magnetic Resonance Spectroscopy Positron Emission Tomography (PET) Scans FDG PET for Inflammation and Infection
Medicare Claims Processing (CMS-Pub. 100-04)	
10702	April 2021 Update of the Ambulatory Surgical Center (ASC) Payment System
10703	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
10704	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10713	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10716	Common Working File (CWF) Edits for Medicare Telehealth Services and Manual Update Telehealth Consultation Services, Emergency Department or Initial Inpatient versus Inpatient Evaluation and Management (E/M) Visits Payment for Subsequent Hospital Care Services and Subsequent Nursing Facility Care Services as Telehealth Services
10721	New Waived Tests
10722	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10724	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10725	File Conversions Related to the Spanish Translation of the Healthcare Common Procedure Coding System (HCPCS) Descriptions
10728	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10737	2021 Durable Medical Equipment Prosthetics, Orthotics, and Supplies Healthcare Common Procedure Coding System (HCPCS) Code Jurisdiction List
10742	Revisions of Sections 30.6.1(B), 30.6.12, and 30.6.13(H) of Chapter 12 of Selection of Level of Evaluation and Management Service Critical Care Visits and Neonatal Intensive Care (Codes 99291 - 99292) Nursing Facility Services
10756	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10758	Replacing Home Health Requests for Anticipated Payment (RAPs) with a Notice of Admission (NOA) -- Manual Instructions
10760	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10762	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10766	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10768	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10771	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10773.	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10775	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10782	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10788	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10793	Quarterly Update to the Medicare Physician Fee Schedule Database (MPFSDB) - July 2021 Update
10794	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10796	National Coverage Determination (NCD 110.24): Chimeric Antigen Receptor (CAR) T-cell Therapy - This CR Rescinds and Fully Replaces CR 11783. Chimeric Antigen Receptor (CAR) T-cell therapy Coverage Requirements Billing Requirements Medicare Administrative Contractor (MAC) (A) Bill Types Revenue Codes Billing Healthcare Common Procedural Coding System (HCPCS) Codes Diagnosis Requirements Payment Requirements Claim Adjustment Reason Codes (CARCs), Remittance Advice Remark Codes (RARCs), Group Codes, and Medicare Summary Notice (MSN) Messages Claims Editing
10803	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10809	Annual Updates to the Prior Authorization/Pre-Claim Review Federal Holiday Schedule Tables for Generating Reports
10810	Quarterly Update for Clinical Laboratory Fee Schedule (CLFS) and Laboratory Services Subject to Reasonable Charge Payment
10811	October 2021 Healthcare Common Procedure Coding System (HCPCS) Quarterly Update Reminder
10812	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
10814	Remittance Advice Remark Code (RARC), Claims Adjustment Reason Code (CARC), Medicare Remit Easy Print (MREP) and PC Print Update
10815	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10816	Issued to a specific audience, not posted to Internet/Intranet due to a

	Confidentiality of Instruction
10818	National Coverage Determination (NCD) 210.3 - Screening for Colorectal Cancer (CRC)-Blood-Based Biomarker Tests Preventive and Screening Services Colorectal Cancer (CRC) Screening Payment Deductible and Coinsurance HCPCS Codes, Frequency Requirements, and Age Requirements CWF Edits Ambulatory Surgical Center (ASC) Facility Fee Determining High Risk for Developing CRC Non-Covered Services Billing Requirements for Claims Submitted to A/B MACs (A Medicare Summary Notice (MSN) Messages Remittance Advice Codes
10819	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10822	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
10823	Combined Common Edits/Enhancements Modules (CCEM) Code Set Update
10824	July 2021 Integrated Outpatient Code Editor (I/OCE) Specifications Version 22.2
10825	July 2021 Update of the Hospital Outpatient Prospective Payment System (OPPS) Clinic Visits
10826	Shared System Support Hours for Application Programming Interfaces (APIs)
10831	Healthcare Common Procedure Coding System (HCPCS) Codes Subject to and Excluded from Clinical Laboratory Improvement Amendments (CLIA) Edits
10833	Quarterly Update for the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP) - October 2021
10834	Quarterly Update to Home Health (HH) Grouper
10836	July 2021 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing Files and Revisions to Prior Quarterly Pricing Files
10837	National Coverage Determination (NCD) 20.9.1 Ventricular Assist Devices (VADs) Artificial Hearts and Related Devices Ventricular Assist Devices (VADs Post-Cardiotomy VADs for Short-term or Long-term Mechanical Circulatory Support Other Replacement Accessories and Supplies for External VADs or Any VAD
10839	Replacing Home Health Requests for Anticipated Payment (RAPs) with a Notice of Admission (NOA) -- Manual Instructions Creation of HH PPS and Subsequent Refinements RESERVED The HH PPS Unit of Payment Number, Duration, and Claims Submission of HH PPS Periods of Care More Than One Agency Furnished Home Health Services Effect of Election of Medicare Advantage (MA) Organization and Eligibility Changes on HH PPS RESERVED Basis of Medicare Prospective Payment Systems and Case-Mix Coding of HH PPS Case-Mix Groups on HH PPS Claims: HHRGs and HIPPS Cod Composition of HIPPS Codes for HH PPS Grouper Links Assessment and Payment RESERVED Submission of the Notice of Admission (NOA)
	Claim Submission and Processing Payment, Claim Adjustments and Cancellations RESERVED Transfer Situation - Payment Effects Discharge and Readmission Situation Under HH PPS - Payment Effects Payment Adjustments - Partial Period Payment Adjustment Payment When Death Occurs During an HH PPS Period Payment Adjustments - Low Utilization Payment Adjustments (LUPAs RESERVED Payment Adjustments – Applying OASIS Assessment Items to Determine HIPPS Codes Payment Adjustments - Outlier Payments RESERVED Changes in a Beneficiary's Payment Source Glossary and Acronym List Home Health Prospective Payment System (HH PPS) Consolidated Billing Responsibilities of Home Health Agencies Responsibilities of Providers/Suppliers of Services Subject to Consolidated Billing Home health Consolidated Billing Edits in Medicare Systems Therapy Editing Other Editing Related to Home Health Consolidated Billing Only Notice of Admission (NOA) Received and Services Fall Within Admission Period No NOA Received and Therapy Services Rendered in the Home Eligibility Query to Determine Status CWF Response to Inquiry Timeliness and Limitations of CWF Responses National Home Health Prospective Payment Episode History File Opening and Length of HH PPS Periods of Care RESERVED RESERVED Exhibit: Chart Summarizing the Effects of NOA/Claim Actions on the HH PPS Episode File Notice of Admission (NOA HH PPS Claims Beneficiary-Driven Demand Billing Under HH PPS No Payment Billing General Input/Output Record Layout RESERVED Decision Logic Used by the Pricer on Claims Annual Updates to the HH Pricer Medical and Other Health Services Submitted Using Type of Bill 034x Temporary Suspension of Home Health Services Payment Procedures for Terminated HHAs
10840	Updates to the Internet Only Publication 100-04, Chapter 1, Section 10.1 and Chapter 20, Section 10 A/B MACs [Part B] and DME MACs Jurisdiction of Requests for Payment Where to Bill DMEPOS and PEN Items and Services
10844	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
Medicare Secondary Payer (CMS-Pub. 100-05)	
10730	Electronic Correspondence Referral System (ECRS) Updates to the Revised Remote Identity Proofing, Implementation of a New ECRS Web Error Code, and Multi-Factor Authentication (MFA) Process and Requirements for the Transition from Connect Direct to the

	Attachment 2 - ECRS Web Quick Reference Card, Version 2021/5 April Attachment 1 - ECRS Web User Guide, Version 6.6 CMS Electronic File Transfer (EFT) System
10753	Update the Common Working File (CWF) to Accept a Group Health Plan (GHP) and non-GHP (NGHP) Medicare Secondary Payer (MSP) Effective Date 3 Months from the Current Date for Medicare Enrolled and Medicare Entitled Beneficiaries
10786	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10807	Update the International Classification of Diseases, Tenth Revision (ICD-10) 2022 Tables in the Common Working File (CWF) for Purposes of Processing Non-Group Health Plan (NGHP) Medicare Secondary Payer (MSP) Records and Claims
Medicare Financial Management (CMS-Pub. 100-06)	
10710	The Fiscal Intermediary Shared System (FISS) Submission of Copybook Files to the Provider and Statistical Reimbursement (PS&R) System
10731	Notice of New Interest Rate for Medicare Overpayments and Underpayments -3rd Qtr Notification for FY 2021
10790	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
10806	The Fiscal Intermediary Shared System (FISS) Submission of Copybook Files to the Provider and Statistical Reimbursement (PS&R) System
10821	Pub. 100-06, Chapter 4, Section 10 Revision (New Accounts Receivable (AR) Status Codes for Undeliverable Initial Demand Letters and Terminated/Out of Business Providers) Requirements for Collecting Part A and B Provider Non-MSP Overpayments
10835	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
Medicare State Operations Manual (CMS-Pub. 100-07)	
204	Revisions to the State Operations Manual (SOM) Appendix Z - Emergency Preparedness
Medicare Program Integrity (CMS-Pub. 100-08)	
10709	Update to Chapter 12 (The Comprehensive Error Rate Testing (CERT) Program) of Publication (Pub.) 100-08 Handling Overpayments and Underpayments Resulting from the CERT Findings
10711	Updates to Chapter 4 of Publication (Pub.) 100-08 Organizational Requirements Procedural Requirements Program Integrity Security Requirements Requests for Information From Outside Organizations Screening Leads Vetting Leads with CMS Conducting Investigations Reversed Denials by Administrative Law Judges on Open Cases Production of Medical Records and Documentation for an Appeals Case File Guidelines for Incentive Reward Program Complaint Tracking Fraud Alerts Administrative Relief from Program Integrity Review in the Presence of a Disaster UPIC Hospice Cap Liability Process – Coordination with the MAC Referral of Cases to the OIG/OI Immediate Advisements to the OIG/OI Referral to Other Law Enforcement Agencies Reserved for Future Use Referral to State Agencies or Other Organizations UPICs and QIOs Discounts, Rebates, and Other Reductions in Price Identity Theft Investigations and Victimized Provider Waiver of Liability Procedure
10723	Implementation of Provider Enrollment Provisions in CMS-6058-FC – Phase 1 – Continued Removal/Moving of Instructions from Chapter 15 of Publication (Pub.) 100-08 to Chapter 10 of Pub. 100-08 Medicare Enrollment: Contractor Processing Duties Other Medicare Contractor Duties Development Letters
10727	Chapter 15 of Publication (Pub.) 100-08 Manual Redesign – Additional Release of Chapter 10 of Pub. 100-08, Modification of the Timeliness Standards
10733	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10735	Updates to Medicare Administrative Contractor (MAC) Appeals and Rebuttals Reporting
10736	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10740	Voluntary Terminations of Enrollment Involving Certified Providers and Certified Suppliers Voluntary Terminations Model Letters for Voluntary Terminations Involving Certified Providers and Certified Suppliers
10741	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10743	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10744	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10745	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10749	Updates to Chapter 4 and Chapter 5 of Publication (Pub.) 100-08 Identity Theft Investigations and Victimized Provider Waiver of Liability Certificates of Medical Necessity (CMNs) and DME Information Form (DIFs) Completing a CMN or DIF Cover Letters for CMNs DME MACs and UPICs Authority to Initiate an Overpayment and/or Civil Monetary Penalty (CMP) When Invalid CMNs or DIFs Are Identified Documentation in the Patient's Medical Record Supplier Documentation Evidence of Medical Necessity for the Oxygen Claims Period of Medical Necessity - Home Dialysis Equipment Safeguards in Making Monthly Payments Pick-up Slips Advance Determination of Medicare Coverage (ADMC) of Customized DMEPOS
10750	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10751	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10752	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10776	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10777	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10779	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions

10799	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10800	Second General Update to Chapter 10 of Publication (Pub.) 100-08, Program Integrity Manual Suppliers That Enroll Via the Form CMS-855B Ambulatory Surgical Centers (ASCs Home Infusion Therapy Suppliers Independent Clinical Laboratory Improvement Act Labs Independent Diagnostic Testing Facilities (IDTFs) Intensive Cardiac Rehabilitation (ICR) Mammography Screening Centers (MSCs) Pharmacies Portable X-Ray Suppliers (PXRSs) Radiation Therapy Centers (RTCs Suppliers of Ambulance Services Individual Practitioners Who Enroll Via the Form CMS-855I Anesthesiology Assistants Audiologists Certified Nurse-Midwives Certified Registered Nurse Anesthetists (CRNAs) Clinical Nurse Specialists Clinical Psychologists Clinical Social Workers Nurse Practitioners Occupational Therapists in Private Practice Physical Therapists in Private Practice Physician Physician Assistants Psychologists Practicing Independently Registered Dietitians/Nutrition Professionals Speech Language Pathologists in Private Practice Manufacturers of Replacement Parts/Supplies for Prosthetic Implants or Implantable Durable Medical Equipment (DME) Surgically Inserted at an Ambulatory Surgical Center (ASC) Enrollment Form: Information and Processing CMS-20134 (Section 1 – Basic Information) CMS-20134 (Section 2 – Identifying Information) CMS-20134 (Section 3 – Final Adverse Legal Actions/Convictions) CMS-20134 (Section 4 – MDPP Location Information) CMS-20134 (Sections 5 & 6 – Owning and Managing Organizations and Individuals) Reserved for Future Use CMS-20134 (Section 7 – Coach Roster) CMS-20134 (Section 8 – Billing Agency Information) CMS-20134 (Section 13 - Contact Person) CMS-20134 (Section 14 – Penalties for Falsifying Information) CMS-20134 (Section 15 – Certification Statement and Authorized Officials) CMS-20134 (Section 16 – Delegated Officials) CMS-20134 (Section 17 – Supporting Documents) Additional Form CMS-20134 Processing Information and Alternatives
10805	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10808	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10828	Provider Enrollment Rebuttal Process - Additional Instructions for Returning Applications and Deactivations
10829	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10830	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10841	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10843	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)	
10705	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
11772	Updates to Pub. 100-09, Chapter 6 Beneficiary and Provider Communications Manual, Chapter 6, Provider Customer Service Program Quality Assurance Monitoring (QAM) Remote Monitoring Disaster Recovery Guidelines for High Quality Responses to Provider Telephone Inquiries Telephone Response Quality Monitoring Program Telephone Responses to Provider Inquiries -- QCM Program Minimum Requirements Recording Calls QCM Calibration Provider Written Inquiries Controlling Provider Written Inquiries Provider Written Inquiry Storage Duplicate Inquiries Telephone Responses to Provider Written Inquiries Electronic Responses to Provider Written Check Off Letters Guidelines for High Quality Responses to Provider Written Stock Language/Form Letters Provider Written Response Quality Monitoring Program Written Responses to Provider Inquiries – QWCM Program Minimum Requirements QWCM Calibration Replying to Correspondence from Members of Congress Provider Walk-In Inquiries Guidelines for Provider Walk-In Service PRRS Operations Complex Provider Inquiries Complex Beneficiary Inquiries Provider Inquiry Tracking Updates to the CMS Standardized Provider Inquiry Chart MAC Inquiry Tracking Self-Data Review and Self-Validation Process Fraud and Abuse Provider Education Website Satisfaction Survey Staff Development and Education PCC Staff Development and Training Required Training for PCC Staff Provider Notifications of PCC Training Closures PCC Training Documentation Provider Self-Service Technology Interactive Voice Response System Provider Education Website General Requirements Webmaster and Attestation Website Governance

	CMS Feedback Contents Dissemination of Information from CMS to Providers Frequently Asked Questions Internet-based Provider Educational Offerings Provider Education Website Promotion Electronic Mailing List (Listserv) Targeted Electronic Mailing Lists (Listservs) Electronic Mailing List (Listserv) Promotion Social Media Internet-based Provider Portal Service Interruptions Survey Provider Satisfaction Survey MAC Survey Participation Requirements Continuous Improvement Closed-Loop Ticketing Survey Response Prohibition MCE User Guide Third-Party Contractor Platform System Users MAC Satisfaction Score PCSP Performance Management POE - Electronic Mailing List (Listserv) Subscribership Telephone Standards Call Completion Call Acknowledgment Average Speed of Answer (ASA) Callback QCM Performance Standards QAM (Telephone) Performance Standard Standards for Written Responses to Provider Inquiries QWCM Performance Standards Timeliness of Responses to Written Provider Inquiries Timeliness of Responses to General Provider Inquiries Timeliness of Responses to Complex Provider Inquiries (PRRS) Timeliness of Responses to Complex Beneficiary Inquiries Timeliness of Responses to Congressional Inquiries PCSP Data Reporting PIE Access to PIES Due Date for Data Submission to PIES Data to be Reported Monthly in PIES PCID Access to PCID MAC Contract and PCSP Data to be Reported in PCID Additional Data to be Reported Monthly in PCID and Reporting Due Dates Inquiry Tracking Data to be Reported in PCID PCC Training Closure Information to be Reported in PCID POE Data to be Reported in PCID Provider Electronic Mailing List (Listserv) Subscriber Data to be Reported in PCID Special Initiatives Activities to be Reported in PCID Special Initiatives Activities to be Reported in PCID Emergency and Similar PCC Closure Data to be Reported in PCID Telecommunications Service Interruptions to be Reported in PCID Provider Internet-based Portal Service Interruptions to be Reported in PCID Provider Internet-based Portal Functionality to be Reported in PCID Provider Education Website Analytic Data to be Reported in PCID Direct Mailing Information to be Reported in PCID QCM

	Access to QCM QWCM Access to QWCM Disclosure of Information
10813	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
Medicare Quality Improvement Organization (CMS- Pub. 100-10)	
	None
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100-14)	
	None
Medicaid Program Integrity Disease Network Organizations (CMS Pub 100-15)	
	None
Medicare Managed Care (CMS-Pub. 100-16)	
	None
Medicare Business Partners Systems Security (CMS-Pub. 100-17)	
	None
Medicare Prescription Drug Benefit (CMS-Pub. 100-18)	
	None
Demonstrations (CMS-Pub. 100-19)	
10704	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
10715	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
10726	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10746	Primary Care First (PCF) and Serious Illness Patient (SIP) Models: Part 3: IURs and Edits for Non-Sequential Claims
10747	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
10774	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10787	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
10791	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10802	Direct Contracting (DC) Model - Professional and Global Options: Total Care Capitation (TCC), Primary Care Capitation (PCC), Advanced Payment Option (APO), Telehealth Expansion, 3-day SNF Rule Waiver, Post-Discharge and Care-Management Home Visits – Implementation
10820	Primary Care First (PCF) and Serious Illness Patient (SIP) Models: Part 3: IURs and Edits for Non-Sequential Claims
One Time Notification (CMS-Pub. 100-20)	
10712	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10717	MAC Participation in Change Requests Developed through Agile Methodology
10718	Cognitive Assessment & Care Plan Services
10732	Addition of the QW Modifier to Healthcare Common Procedure Coding System (HCPCS) Code 87636
10734	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
10739	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
10748	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions

10780	Update to Rural Health Clinic (RHC) Payment Limits
10781	Initiative to Reduce Avoidable Hospitalizations among Nursing Facility Residents (NFI) - Updates and Clarifications
10785	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
10789	The Fiscal Intermediary Shared System (FISS) Business Requirement for Rejected Claims Throwing Off the Provider and Statistical Reimbursement (PS&R) System Managed Care Days
10792	Mobile Personal Identity Verification (PIV) Station Installation
10795	Replacing Home Health Requests for Anticipated Payment (RAPs) with a Notice of Admission (NOA) – Implementation
10801	Additional Payment Edits for DMEPOS Suppliers of Custom Fabricated and Prefabricated (Custom Fitted) Orthotics. Update to Change Request (CR) 3959, CR 8390, and CR 873
10804	International Classification of Diseases, 10th Revision (ICD-10) and Other Coding Revisions to National Coverage Determination (NCDs)--July 2021
10817	International Classification of Diseases, 10th Revision (ICD-10) and Other Coding Revisions to National Coverage Determination (NCDs)--October 2021
10827	Addition of the QW Modifier to Healthcare Common Procedure Coding System (HCPCS) Codes 0240U, 0241U, 87637
10832	International Classification of Diseases, 10th Revision (ICD-10) and Other Coding Revisions to National Coverage Determination (NCDs)--July 2021
10842	Implementation of the Hospital Outpatient Department (HOPD) Prior Authorization (PA) Paired Items of Service for the X12 278 PA Transactions
Medicare Quality Reporting Incentive Programs (CMS- Pub. 100-22)	
	None
State Payment of Medicare Premiums (CMS-Pub.100-24)	
	None
Information Security Acceptable Risk Safeguards (CMS-Pub. 100-25)	
	None

Addendum II: Regulation Documents Published in the Federal Register (April through June 2021)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register,** contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at http://www.gpoaccess.gov/fr/index.html. The following website http://www.archives.gov/federal-register/ provides information on how to access electronic editions, printed editions, and reference copies.

This information is available on our website at: https://www.cms.gov/files/document/regs2q21qpu.pdf

For questions or additional information, contact Terri Plumb (410-786-4481).

Addendum III: CMS Rulings (April through June 2021)

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters.

The rulings can be accessed at http://www.cms.gov/Regulations-and-Guidance/Guidance/Rulings. For questions or additional information, contact Tiffany Lafferty (410-786-7548).

Addendum IV: Medicare National Coverage Determinations (April through June 2021)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Information on completed decisions as well as pending decisions has also been posted on the CMS website. For the purposes of this quarterly notice, we are providing only the specific updates to national coverage determinations (NCDs), or reconsiderations of completed NCDs published in the 3-month period. This information is available at: www.cms.gov/medicare-coverage-database/. For questions or additional information, contact Wanda Belle, MPA (410-786-7491).

Title	NCDM Section	Transmittal Number	Issue Date	Effective Date
Chimeric Antigen Receptor (CAR) T-cell Therapy for Cancers	NCD 110.24	12177	05/21/2021	08/07/2019

Artificial Hearts/ Related Devices & VADs for Bridge to Transplant/Destination Therapy	NCD 20.9-20.9.1	10837	06/22/2021	12/01/2020
Screening for Colorectal Cancer - Blood-Based Biomarker Tests	NCD 210.3	10818	05/21/2021	01/19/2021

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (April through June 2021)

(Inclusion of this addenda is under discussion internally.)

Addendum VI: Approval Numbers for Collections of Information (April through June 2021)

All approval numbers are available to the public at Reginfo.gov. Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain. For questions or additional information, contact William Parham (410-786-4669).

Addendum VII: Medicare-Approved Carotid Stent Facilities (April through June 2021)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available at: http://www.cms.gov/MedicareApprovedFacilitie/CASF/list.asp#TopOfPage For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Facility	Provider Number	Effective Date	State
The following facilities are new listings for this quarter.			
New York Health + Hospitals 462 1st Street H-Building, Executive Administration New York, NY 10016	330204	03/30/2021	NY
Inova Fair Oaks Hospital 3600 Joseph Siewick Drive Fairfax, VA 22033	490101	04/26/2021	VA
UPMC Hanover 300 Highland Avenue Hanover, PA 17331	390233	04/13/2021	PA
St. Joseph's Hospital - North 4211 Van Dyke Road Lutz, FL 33558	1881632818	05/18/2021	FL
Kalispell Regional Medical Center 310 Sunnyview Lane Kalispell, MT 59901	1417945627	05/18/2021	MT
Sierra Vista Regional Medical Center 1010 Murray Avenue San Luis Obispo, CA 93405	050506	05/25/2021	CA
Emanate Health-Queen of the Valley Hospital 1115 South Sunset Avenue West Covina, CA 91790	050382	06/08/2021	CA
Carilion New River Valley Medical Center 2900 Lamb Circle Christianburg, VA 24073	1295868792	06/15/2021	VA
The following facilities have editorial changes (in bold).			
Orlando Health **Old Address:** 52 West Underwood Street Orlando, FL 32806 **New Address:** 1414 Kuhl Avenue Orlando, FL 32806	100006	05/23/2005	FL
Previous Name: Gwinnett Medical Center **New Name:** Northside Hospital Gwinnett (For 1000 Medical Center Boulevard Lawrenceville, GA 30045	110087	08/31/2005	GA
Previous Name: Bay Medical Center **New Name:** Ascension Sacred Heart Bay 615 North Bonita Avenue Panama City, FL 32402	100026	05/23/2005	FL

Addendum VIII: American College of Cardiology's National Cardiovascular Data Registry Sites (April through June 2021)

The initial data collection requirement through the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) has served to develop and improve the evidence base for the use of ICDs in certain Medicare beneficiaries. The data collection requirement ended with the posting of the final decision memo for Implantable Cardioverter Defibrillators on February 15, 2018.

For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum IX: Active CMS Coverage-Related Guidance Documents

(April through June 2021)

CMS issued a guidance document on November 20, 2014 titled "Guidance for the Public, Industry, and CMS Staff: Coverage with Evidence Development Document". Although CMS has several policy vehicles relating to evidence development activities including the investigational device exemption (IDE), the clinical trial policy, national coverage determinations and local coverage determinations, this guidance document is principally intended to help the public understand CMS's implementation of coverage with evidence development (CED) through the national coverage determination process. The document is available at http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=27. There are no additional Active CMS Coverage-Related Guidance Documents for the 3-month period. For questions or additional information, contact JoAnna Baldwin, MS (410-786-7205).

Addendum X:
List of Special One-Time Notices Regarding National Coverage Provisions (April through June 2021)

There were no special one-time notices regarding national coverage provisions published in the 3-month period. This information is available at http://www.cms.gov . For questions or additional information, contact JoAnna Baldwin, MS (410-786 7205).

Addendum XI: National Oncologic PET Registry (NOPR) (April through June 2021)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry. There were no additions, deletions, or editorial changes to the listing of National Oncologic Positron Emission Tomography Registry (NOPR) in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/NOPR/list.asp#TopOfPage. For questions or additional information, contact David Dolan, MBA (410-786-3365).

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (April through June 2021)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates to the list of Medicare-approved facilities that meet our standards that have occurred in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/VAD/list.asp#TopOfPage. For questions or additional information, contact David Dolan, MBA, (410-786-3365).

Facility	Provider Number	Date of Initial Certification	Date of Re-certification	State
The following are new facilities.				
HCA Houston Healthcare Medical Center 1313 Hermann Drive Houston, TX 77004 Other information: DNV ID # 10000432549-MSC-VAD-USA Previous Re-certification Dates: n/a	450659	04/13/2021		TX
Kaiser Foundation Hospital - Santa Clara 700 Lawrence Expressway Santa Clara, CA 95051 Other information Joint Commission ID # 10123 Previous Re-certification Dates: n/a	050071	03/25/2021		CA
The following facilities have editorial changes (in bold).				
The University of Kansas Health System 4000 Cambridge Street Kansas City, KS 66160-7200	170040	03/08/2016	**06/01/2021**	KS

Facility	Provider Number	Date of Initial Certification	Date of Re-certification	State
University of North Carolina Hospitals 101 Manning Drive Chapel Hill, NC 27514 Other information: Joint Commission ID # 6478 Previous Re-certification Dates: 10/16/2008; 10/19/2010; 10/26/2012; 10/16/2014; 11/08/2016; 11/28/2018	340061	10/26/2008	**02/17/2021**	NC
Mayo Clinic Hospital — Rochester 1216 Second Street SW Rochester, MN 55902-1906 Other information: Joint Commission ID # 8181 Previous Re-certification Dates: 02/26/2008; 02/09/2010; 02/21/2012; 02/21/2014; 04/05/2016; 03/23/2018	240010	02/26/2008	**03/20/2021**	MN
St. Francis Hospital 100 Port Washington Blvd Roslyn, NY 11576 Other information: Joint Commission ID # 5860 Previous Re-certification Dates: 11/08/2016; 11/14/2018	330182	11/08/2016	**05/08/2021**	NY
West Virginia University Hospitals, Inc. One Medical Center Drive Morgantown, WV 26506 Other information: Joint Commission ID # 6444 Previous Re-certification Dates: 2018-07-26	510001	07/26/2018	**02/25/2021**	WV
Christ Hospital 2139 Auburn Avenue Cincinnati, OH 45219 Other information: Joint Commission ID # 6987 Previous Re-certification Dates: Other information: Joint Commission ID # 8567 Previous Re-certification Dates: 03/08/2016; 03/06/2018	360163	02/17/2012	**02/26/2021**	OH
Froedtert Memorial Lutheran Hospital, Inc 9200 West Wisconsin Avenue Milwaukee, WI 53226 Other information: Joint Commission ID # 7718 Previous Re-certification Dates: 07/31/2012; 07/08/2014; 08/09/2016	520177	07/31/2012	**01/07/2021**	WI
From: Saint Thomas West Hospital **To: Ascension Saint Thomas Hospital** 4220 Harding Road Nashville, TN 37205 Other information: Joint Commission ID # 7891 Previous Re-certification Dates: 06/22/2010; 06/22/2012; 05/20/2014; 07/13/2016	440082	06/22/2010	**01/14/2021**	TN
University Hospitals Cleveland Medical Center 11100 Euclid Avenue Cleveland, OH 44106 Other information: Joint Commission ID # 7017 Previous Re-certification Dates: 02/09/2010; 01/24/2012; 01/30/2014; 02/23/2016; 02/09/2018	360137	02/09/2010	**01/21/2021**	OH

Facility	Provider Number	Date of Initial Certification	Date of Re-certification	State
02/17/2012; 02/20/2014; 04/05/2016; 03/20/2018				
Northeast Georgia Medical Center 743 Spring Street Gainesville, GA 30501 Other information: DNV GL-USA ID # 10000464475-MSC-DNV GL-USA Previous Re-certification Dates: 04-26-2018	110029	04/26/2018	**05/05/2021**	GA
University of Colorado Hospital Authority 12605 E 16th Ave Aurora, CO 80045 Other information: Joint Commission ID # 9384 Previous Re-certification Dates: 07/22/2008; 08/17/2010; 08/10/2012; 07/22/2014; 07/26/2016	060024	07/22/2008	**03/10/2021**	CO
From: California Pacific Medical Center-Van Ness Campus 1101 Van Ness Avenue San Francisco, CA 94109 **To: California Pacific Medical Center-Pacific Campus;** Other information: Joint Commission ID # 5152 Previous Re-certification Dates: 12/08/2009; 11/11/2011; 01/07/2014; 02/09/2016; 03/20/2018	050047	12/08/2009	**02/20/2021**	CA
JFK Medical Center 5301 South Congress Avenue Atlantis, FL 33462 Other information: Joint Commission ID # 6836 Previous Re-certification Dates: 01/24/2017; 3/6/2019	100080	01/24/2017	**03/03/2021**	FL
Mission Hospital 509 Biltmore Avenue Asheville, NC 28801-4690 Other information: Joint Commission ID # 6468 Previous Re-certification Dates: 05/17/2016; 6/27/2018	340002	05/17/2016	**04/14/2021**	NC

Addendum XIII: Lung Volume Reduction Surgery (LVRS) (April through June 2021)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. There were no updates to the listing of facilities for lung volume reduction surgery published in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/LVRS/list.asp#TopOfPage. For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities (April through June 2021)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity. This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric

Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

There were no additions, deletions, or editorial changes to Medicare-approved facilities that meet CMS' minimum facility standards for bariatric surgery that have been certified by ACS and/or ASMBS in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage. For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum XV: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials (April through June 2021)

There were no FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the 3-month period.

This information is available on our website at www.cms.gov/MedicareApprovedFacilitie/PETDT/list.asp#TopOfPage. For questions or additional information, contact David Dolan, MBA (410-786-3365).

[FR Doc. 2021–17602 Filed 8–16–21; 8:45 am]

BILLING CODE 4120–01–C

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 July 1, 2021, through July 31, 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. James Edward Perry, Garden Grove, California, Court of Federal Claims No: 21–1530V
2. Billy Sword, Kingsport, Tennessee, Court of Federal Claims No: 21–1534V
3. Amanda Purdin, Hilliard, Ohio, Court of Federal Claims No: 21–1536V
4. Eileen Arcery, Depew, New York, Court of Federal Claims No: 21–1537V
5. Alex Dosser, Oklahoma City, Oklahoma, Court of Federal Claims No: 21–1538V
6. Rameen Rizi, Phoenix, Arizona, Court of Federal Claims No: 21–1544V
7. Angeline Khan on behalf of A.K., Hayward, California, Court of Federal Claims No: 21–1545V
8. Veronica Mendoza, Juarez, Mexico, Court of Federal Claims No: 21–1547V
9. Jennifer Raftery, Washington, District of Columbia, Court of Federal Claims No: 21–1549V
10. Meagan Brown Schmidt, Washington, District of Columbia, Court of Federal Claims No: 21–1550V
11. David Shafer, Midland, Texas, Court of Federal Claims No: 21–1552V
12. Darcy Weidner, Sharon, Pennsylvania, Court of Federal Claims No: 21–1554V
13. Olinda Gilmore, Universal City, Texas, Court of Federal Claims No: 21–1556V
14. William L. Miller, Cary, North Carolina, Court of Federal Claims No: 21–1559V
15. Erik Koonce, Doylestown, Pennsylvania, Court of Federal Claims No: 21–1560V
16. Patricia Santiago, Chicago, Illinois, Court of Federal Claims No: 21–1562V
17. Nicholas Politano, Phoenix, Arizona, Court of Federal Claims No: 21–1563V
18. Laura Surface, Northfield, New Jersey, Court of Federal Claims No: 21–1565V
19. Juanita Green, Washington, District of Columbia, Court of Federal Claims No: 21–1566V
20. Claire Kuang, Washington, District of Columbia, Court of Federal Claims No: 21–1567V
21. Kathleen R. McNamee, North Olmstead, Ohio, Court of Federal Claims No: 21–1568V
22. Katie Perette, Bridgewater, Massachusetts, Court of Federal Claims No: 21–1569V
23. John Wirsen, Springfield, Missouri, Court of Federal Claims No: 21–1571V
24. Raquel Hernandez, Modesto, California, Court of Federal Claims No: 21–1572V
25. Hannah R. Boudreau, Juliet, Tennessee, Court of Federal Claims No: 21–1573V
26. Beverly Hales, Ashland, Texas, Court of Federal Claims No: 21–1575V
27. William McCaughey, Warwick, Rhode Island, Court of Federal Claims No: 21–1576V
28. Helena Smith on behalf of A.S., Chicago, Illinois, Court of Federal Claims No: 21–1577V
29. William Minner, Topeka, Kansas, Court of Federal Claims No: 21–1579V
30. Keith A. Lee, New York, New York, Court of Federal Claims No: 21–1582V
31. Bobbi Hoodiman on behalf of T.H., Ridgewood, New Jersey, Court of Federal Claims No: 21–1583V
32. Edward O. Janosko, II, Wilmington, North Carolina, Court of Federal Claims No: 21–1584V
33. Jammie Yerks, Boscobel, Wisconsin, Court of Federal Claims No: 21–1585V
34. Dennis L. Ericson, West Hartford, Connecticut, Court of Federal Claims No: 21–1587V
35. Todd Seely, Washington, District of Columbia, Court of Federal Claims No: 21–1590V
36. Kathleen Pachuki, Chicago, Illinois, Court of Federal Claims No: 21–1591V
37. Madison Jugon, The Woodlands, Texas, Court of Federal Claims No: 21–1592V
38. Brenda Hatten, Omaha, Nebraska, Court of Federal Claims No: 21–1593V
39. Cristian Garcia, Boston, Massachusetts, Court of Federal Claims No: 21–1601V
40. Robert Donchess, Blythewood, South Carolina, Court of Federal Claims No: 21–1603V
41. Luke Kramer, Upland, California, Court of Federal Claims No: 21–1604V
42. James Mease, Elkton, Maryland, Court of Federal Claims No: 21–1605V
43. Taylor Williams, Greensboro, North Carolina, Court of Federal Claims No: 21–1606V
44. Frank Burke, Portland, Oregon, Court of Federal Claims No: 21–1607V
45. Paul Pellegrino on behalf of A.P., Matthews, North Carolina, Court of Federal Claims No: 21–1608V
46. Victoria A. Van Voorhis, Rochester, New York, Court of Federal Claims No: 21–1610V
47. Edna Fowler on behalf of The Estate of William Fowler, Deceased, Dublin, Ohio, Court of Federal Claims No: 21–1611V
48. Morgan Smith, Rock Hill, South Carolina, Court of Federal Claims No: 21–1613V
49. Roger Nyhuis, Cincinnati, Ohio, Court of Federal Claims No: 21–1615V
50. Julia Seeli on behalf of P.S., Phoenix, Arizona, Court of Federal Claims No: 21–1616V
51. Michelle Foster on behalf of H.F., Phoenix, Arizona, Court of Federal Claims No: 21–1617V
52. Nicholas Delaney and Krystal Delaney on behalf of C.M.D., St. Cloud, Minnesota, Court of Federal Claims No: 21–1620V
53. Cassie Malone, Casper, Wyoming, Court of Federal Claims No: 21–1625V
54. Sarah Lukas, Phoenix, Arizona, Court of Federal Claims No: 21–1627V
55. Jeanne M. Quattromani, Westerly, Rhode Island, Court of Federal Claims No: 21–1628V
56. Linda Waxman, Lyndhurst, Ohio, Court of Federal Claims No: 21–1631V
57. John D. Slusser, Jr., St. Christiansburg, Virginia, Court of Federal Claims No: 21–1636V
58. Julia Seeli on behalf of S. H., Phoenix, Arizona, Court of Federal Claims No: 21–1637V
59. Yvonne Romo, Seattle, Washington, Court of Federal Claims No: 21–1638V

[FR Doc. 2021–17557 Filed 8–16–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information: Comments on the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) Draft Strategic Plan

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This Request for Information (RFI) is intended to seek feedback from the public on the draft National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) Strategic Plan for Research. NIDDK invites input from: The scientific research community; patients and caregivers; health care providers and health advocacy organizations; scientific and

professional organizations; federal agencies; and other stakeholders, including interested members of the public. Organizations are strongly encouraged to submit a single response that reflects the views of their organization and their membership as a whole.

DATES: Comments must be received by 11:59:59 p.m. (ET) on August 31, 2021 to ensure consideration.

ADDRESSES: All comments must be submitted electronically on the submission website, available at *https://rfi.grants.nih.gov/?s=60fef9beab43000053007ed2.*

FOR FURTHER INFORMATION CONTACT: Please direct all inquiries to: Lisa Gansheroff, *NIDDKstrategicplan@nih.gov,* 301–496–6623.

SUPPLEMENTARY INFORMATION: This Notice is in accordance with the 21st Century Cures Act, NIH institutes are required to regularly update their strategic plans. The NIDDK's ongoing Institute-wide strategic planning process will develop a broad vision for accelerating research into the causes, prevention, and treatment of diseases and conditions within the Institute's mission. This overarching trans-NIDDK Strategic Plan will complement NIDDK's disease-specific planning efforts. The Strategic Plan will have a 5-year time horizon but will also include planning for longer term efforts that could be initiated within this time frame.

External input has been integral to the strategic planning process. NIDDK established a Working Group of Council, comprised of 44 external scientists and patient advocates, including a subset of the members of NIDDK's Advisory Council and others with expertise across the range of NIDDK's mission areas. The Institute also invited broad external input with a public RFI in 2020, and received valuable comments from organizations, individual researchers, people living with diseases in NIDDK's mission, and others. Based on input from the Working Group, the previous RFI, and Council, the Institute has prepared a draft of the Strategic Plan; the draft will be available for public comment through August 31, 2021 via the new RFI at the link above.

NIDDK is committed to empowering a multidisciplinary research community; engaging diverse stakeholders; and leveraging discoveries of connections among diseases across NIDDK's mission to improve prevention, treatment, and health equity—pursuing pathways to health for all. This theme is addressed throughout the draft strategic plan.

The draft Strategic Plan includes five major sections:

- Advance understanding of biological pathways and environmental contributors to health and disease
- Advance pivotal clinical studies and trials for prevention, treatment, and cures in diverse populations
- Advance research to disseminate and implement evidence-based prevention strategies and treatments in clinics and community settings, to improve the health of all people, more rapidly and more effectively
- Advance stakeholder engagement—including patients and other participants as true partners in research
- Promote efficient and effective ways to serve as a trusted steward of public resources and support research for diseases across our mission

NIDDK invites comments on the draft Strategic Plan from: The scientific research community; patients and caregivers; health care providers and health advocacy organizations; scientific and professional organizations; federal agencies; and other stakeholders, including interested members of the public. Organizations are strongly encouraged to submit a single response that reflects the views of their organization and membership as a whole.

Responses to this RFI are voluntary and may be submitted anonymously. Please do not include any information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in your response. The Government will use the information submitted in response to this RFI at its discretion. Individual feedback will not be provided to any responder. The Government reserves the right to use any submitted information on public websites, in reports, in summaries of the state of the science, in any possible resultant solicitation(s), grant(s), or cooperative agreement(s), or in the development of future funding opportunity announcements. This RFI is for informational and planning purposes only and is not a solicitation for applications or an obligation on the part of the Government to provide support for any ideas identified in response to it. Please note that the Government will not pay for the preparation of any information submitted or for use of that information. NIDDK looks forward to your input and we hope that you will share this RFI with your colleagues.

Dated: August 11, 2021.

Bruce Tibor Roberts,

Health Science Policy Analyst, Office of Scientific Program and Policy Analysis, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2021–17535 Filed 8–16–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials and Comparative Effectiveness Studies.

Date: August 23, 2021.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 435–6033, *rajarams@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: August 11, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17559 Filed 8–16–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; CR and AD.

Date: November 4, 2021.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Bita Nakhai, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 11, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17531 Filed 8–16–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–47]

30-Day Notice of Proposed Information Collection: Choice Neighborhoods; OMB Control No.: 2577–0269

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* September 16, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 7, 2021 at 86 FR 86 FR 30328.

A. Overview of Information Collection

Title of Information Collection: Choice Neighborhoods.

OMB Approval Number: 2577–0269.

Type of Request: Revision of currently approved collection.

Form Number: SF–424, SF–424B, SF–424D, SF–LLL, HUD 2880, HUD 53150, HUD 53152, HUD 53232, HUD 53151, HUD 53154, HUD–53156, HUD–53233, HUD–53234, HUD–53238, HUD–53231, HUD–53235, HUD–53237, HUD–53236, HUD–53239, HUD–2530, HUD–2991, HUD–2995, HUD–53421, HUD–53230, HUD–52515, HUD–50163, HUD–50153.

Description of the need for the information and proposed use: The information collection is required to administer the Choice Neighborhoods program, including applying for funds and grantee reporting.

Respondents (i.e., affected public): Potential applicants and grantees (which would include local governments, tribal entities, public housing authorities, nonprofits, and for-profit developers that apply jointly with a public entity).

Estimated Number of Respondents: 264 annually.

Estimated Number of Responses: 440 annually.

Frequency of Response: Frequency of response varies depending on what information is being provided (*e.g.,* once per year for applications and four times per year for grantee reporting).

Burden Hours per Response: Burden hours per response varies depending on what information is being provided (*e.g.,* Choice Neighborhoods Implementation grant application: 68.17; Choice Neighborhoods Planning grant application: 35.42; Choice Neighborhoods information collections unrelated to the NOFA, including grantee reporting and program management: 14.58).

Total Estimated Burdens: Total burden hours is estimated to be 4,431. Total burden cost is estimated to be $199,393.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–17623 Filed 8–16–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–46]

30-Day Notice of Proposed Information Collection: Record of Employee Interview; OMB Control No.: 2501–0009

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* September 16, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 21, 2021 at 86 FR 27643.

A. Overview of Information Collection

Title of Information Collection: Record of Employee Interview.

OMB Approval Number: 2501–0009.

Type of Request: Reinstatement with change.

Form Number: HUD–11 with instruction, HUD–11–SP con instrucciones.

Description of the need for the information and proposed use: The information is collected using interviews with laborers and mechanics and is compared with employer's certified payroll reports received through other systems. When the collected information is compared with the employer's submitted reports, the information should duplicate itself proving the reports received match the information collected meaning likely compliance with federal labor standards. When there is a difference, an investigation takes place to determine the discrepancy and, when appropriate, declare a federal labor standard violation with steps taken to correct the violation. This collection focuses on the employee as the respondent.

Information collection	Estimated number of respondents	Frequency of response	Total number responses	Total burden hours per response	Total burden hour annual	Hourly cost per response	Total cost
HUD–11 Record of Employee Interview with instruction and HUD–11SP Historial de Entrevista del Empleado ...	37,944	1	37,944	.25	9,486	$32.28	$306,208.08
Total	37,944	1	37,944	.25	9,486	32.28	306,208.08

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–17619 Filed 8–16–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–45]

30-Day Notice of Proposed Information Collection: OCHCO Personnel Security Integrated System for Tracking (PerSIST); OMB Control No.: 2501–New

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* September 16, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 21, 2021 at 86 FR 27644.

A. Overview of Information Collection

Title of Information Collection: OCHCO Personnel Security Integrated System for Tracking (PerSIST).

OMB Approval Number: 201–New.

Type of Request: New collection.

Form Number: HUD 22019.

Description of the need for the information and proposed use: The PII collected and maintained in PerSIST is relevant and necessary to carrying out the investigatory process used to document and support decisions regarding the suitability, eligibility, and fitness for service of applicants for federal employment and contract positions, including long-term students, interns, or volunteers to the extent that their duties require access to federal facilities, information, systems, or applications. The following proposed use and authorities that govern the collection of Personally Identifiable Information (PII) data within the PerSIST system is established under HSPD–12 and in accordance with the Personnel Security and Suitability Policy, Handbook. 755.1 (2019), Chapter 4. *http://hudatwork.hud.gov/HUD/chco/doc/PSS-52019.*

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
22019 PIV Pre-Screen Application	1,625	1	1,625	.17	276.25	$34.86	$9,630.08
Total	1,625	1	1,625	.17	276.25	34.86	9,630.08

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–17621 Filed 8–16–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7038–N–15]

60-Day Notice of Proposed Information Collection: Section 811 Project Rental Assistance for Persons With Disabilities; OMB Control No.: 2502–0608

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: October 18, 2021.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Section 811 Project Rental Assistance for Persons with Disabilities.

OMB Approval Number: 2502–0608.

Type of Request: Reinstatement of an expired collection.

Form Number: SF–424, SF–LLL, HUD–2880, HUD–92235, HUD–92236, HUD–92237, HUD–92238, HUD–92240, HUD–92239, HUD–92241, HUD–92243, HUD–93205.

Description of the need for the information and proposed use: The collection of this information is necessary to the Department to assist HUD in determining applicant eligibility and capacity to award and administer the HUD PRA funds within statutory and program criteria. A thorough evaluation of an applicant's submission is necessary to protect the Government's financial interest.

Respondents: Business or other for-profit State, Local or Tribal Government, Not-for-profit institutions.

Estimated Number of Respondents: 2,285.

Estimated Number of Responses: 2,375.

Frequency of Response: Annually or quarterly.

Average Hours per Response: Varies from 10 minutes to 20 hours.

Total Estimated Burden: 4,248.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Janet M. Golrick,

Acting Chief of Staff for the Office of Housing, Federal Housing Administration.

[FR Doc. 2021–17629 Filed 8–16–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032428; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of San Diego, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of San Diego 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 University of San Diego. 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 University of San Diego at the address in this notice by September 16, 2021.

FOR FURTHER INFORMATION CONTACT: Derrick Cartwright, University of San Diego, 5998 Alcala Park, San Diego, CA 92110, telephone (619) 260–7632, email *dcartwright@sandiego.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 the University of San Diego, San Diego, CA. The human remains were removed from the Aleutian Islands, 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 University of San Diego staff in consultation with representatives of the Alutiiq Museum and Archaeological Repository, acting as agent for the Alutiiq Tribe of Old Harbor [previously listed as Native Village of Old Harbor and Village of Old Harbor]; Central Council of the Tlingit & Haida Indian Tribes; Kaguyak Village; Native Village of Afognak; Native Village of Akhiok; Native Village of Larsen Bay; Native Village of Ouzinkie; Native Village of Port Lions; Sun'aq Tribe of Kodiak [previously listed as Shoonaq' Tribe of Kodiak]; and the Tangirnaq Native Village [previously listed as Lesnoi Village (aka Woody Island)].

Invitations to consult were extended to the Agdaagux Tribe of King Cove; Akiachak Native Community; Akiak Native Community; Alatna Village; Algaaciq Native Village (St. Mary's); Allakaket Village; Angoon Community Association; Anvik Village; Arctic Village (See Native Village of Venetie Tribal Government); Asa'carsarmiut Tribe; Beaver Village; Birch Creek Tribe; Chalkyitsik Village; Cheesh-Na Tribe [previously listed as Native Village of Chistochina]; Chevak Native Village; Chickaloon Native Village; Chignik Bay Tribal Council [previously listed as Native Village of Chignik]; Chignik Lake Village; Chilkat Indian Village (Klukwan); Chilkoot Indian Association (Haines); Chinik Eskimo Community (Golovin); Chuloonawick Native Village; Circle Native Community; Craig Tribal Association [previously listed as Craig Community Association]; Curyung Tribal Council; Douglas Indian Association; Egegik Village; Eklutna Native Village; Emmonak Village; Evansville Village (aka Bettles Field); Galena Village (aka Louden Village); Gulkana Village Council [previously listed as Gulkana Village]; Healy Lake Village; Holy Cross Tribe [previously listed as Holy Cross Village]; Hoonah Indian Association; Hughes Village; Huslia Village; Hydaburg Cooperative Association; Igiugig Village; Inupiat Community of the Arctic Slope; Iqugmiut Traditional Council

[previously listed as Iqurmuit Traditional Council]; Ivanof Bay Tribe [previously listed as Ivanoff Bay Tribe and Ivanoff Bay Village]; Kaktovik Village (aka Barter Island); Kasigluk Traditional Elders Council; Kenaitze Indian Tribe; Ketchikan Indian Community [previously listed as Ketchikan Indian Corporation]; King Island Native Community; King Salmon Tribe; Klawock Cooperative Association; Knik Tribe; Kokhanok Village; Koyukuk Native Village; Levelock Village; Lime Village; Manley Hot Springs Village; Manokotak Village; McGrath Native Village; Mentasta Traditional Council; Metlakatla Indian Community, Annette Island Reserve; Naknek Native Village; Native Village of Akutan; Native Village of Aleknagik; Native Village of Ambler; Native Village of Atka; Native Village of Atqasuk [previously listed as Atqasuk Village (Atkasook)]; Native Village of Barrow Inupiat Traditional Government; Native Village of Belkofski; Native Village of Brevig Mission; Native Village of Buckland; Native Village of Cantwell; Native Village of Chenega (aka Chanega); Native Village of Chignik Lagoon; Native Village of Chitina; Native Village of Chuathbaluk (Russian Mission, Kuskokwim); Native Village of Council; Native Village of Deering; Native Village of Diomede (aka Inalik); Native Village of Eagle; Native Village of Eek; Native Village of Ekuk; Native Village of Ekwok [previously listed as Ekwok Village]; Native Village of Elim; Native Village of Eyak (Cordova); Native Village of False Pass; Native Village of Fort Yukon; Native Village of Gakona; Native Village of Gambell; Native Village of Georgetown; Native Village of Goodnews Bay; Native Village of Hamilton; Native Village of Hooper Bay; Native Village of Kanatak; Native Village of Karluk; Native Village of Kiana; Native Village of Kipnuk; Native Village of Kivalina; Native Village of Kluti Kaah (aka Copper Center); Native Village of Kobuk; Native Village of Kongiganak; Native Village of Kotzebue; Native Village of Koyuk; Native Village of Kwigillingok; Native Village of Kwinhagak (aka Quinhagak); Native Village of Marshall (aka Fortuna Ledge); Native Village of Mary's Igloo; Native Village of Mekoryuk; Native Village of Minto; Native Village of Nanwalek (aka English Bay); Native Village of Napaimute; Native Village of Napakiak; Native Village of Napaskiak; Native Village of Nelson Lagoon; Native Village of Nightmute; Native Village of Nikolski; Native Village of Noatak; Native Village of Nuiqsut (aka Nooiksut); Native Village of Nunam Iqua [previously listed as Native Village of Sheldon's Point]; Native Village of Nunapitchuk; Native Village of Paimiut; Native Village of Perryville; Native Village of Pilot Point; Native Village of Point Hope; Native Village of Point Lay; Native Village of Port Graham; Native Village of Port Heiden; Native Village of Ruby; Native Village of Saint Michael; Native Village of Savoonga; Native Village of Scammon Bay; Native Village of Selawik; Native Village of Shaktoolik; Native Village of Shishmaref; Native Village of Shungnak; Native Village of Stevens; Native Village of Tanacross; Native Village of Tanana; Native Village of Tatitlek; Native Village of Tazlina; Native Village of Teller; Native Village of Tetlin; Native Village of Tuntutuliak; Native Village of Tununak; Native Village of Tyonek; Native Village of Unalakleet; Native Village of Unga; Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie); Native Village of Wales; Native Village of White Mountain; Nenana Native Association; New Koliganek Village Council; New Stuyahok Village; Newhalen Village; Newtok Village; Nikolai Village; Ninilchik Village; Nome Eskimo Community; Nondalton Village; Noorvik Native Community; Northway Village; Nulato Village; Nunakauyarmiut Tribe; Organized Village of Grayling (aka Holikachuk); Organized Village of Kake; Organized Village of Kasaan; Organized Village of Kwethluk; Organized Village of Saxman; Orutsararmiut Traditional Native Council [previously listed as Orutsararmuit Native Village (aka Bethel)]; Oscarville Traditional Village; Pauloff Harbor Village; Pedro Bay Village; Petersburg Indian Association; Pilot Station Traditional Village; Pitka's Point Traditional Council [previously listed as Native Village of Pitka's Point]; Platinum Traditional Village; Portage Creek Village (aka Ohgsenakale); Pribilof Islands Aleut Communities of St. Paul & St. George Islands; Qagan Tayagungin Tribe of Sand Point [previously listed as Qagan Tayagungin Tribe of Sand Point Village]; Qawalangin Tribe of Unalaska; Rampart Village; Salamatof Tribe [previously listed as Village of Salamatoff]; Seldovia Village Tribe; Shageluk Native Village; Sitka Tribe of Alaska; Skagway Village; South Naknek Village; Stebbins Community Association; Takotna Village; Telida Village; Traditional Village of Togiak; Tuluksak Native Community; Twin Hills Village; Ugashik Village; Umkumiut Native Village [previously listed as Umkumiute Native Village]; Village of Alakanuk; Village of Anaktuvuk Pass; Village of Aniak; Village of Atmautluak; Village of Bill Moore's Slough; Village of Chefornak; Village of Clarks Point; Village of Crooked Creek; Village of Dot Lake; Village of Iliamna; Village of Kalskag; Village of Kaltag; Village of Kotlik; Village of Lower Kalskag; Village of Ohogamiut; Village of Red Devil; Village of Sleetmute; Village of Solomon; Village of Stony River; Village of Wainwright; Wrangell Cooperative Association; Yakutat Tlingit Tribe; and the Yupiit of Andreafski.

Hereafter, the Native entities listed in this section are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

Sometime prior to 2000, human remains representing, at minimum, two individuals were removed from the Aleutian Islands, AK. On December 12, 2002, Rose A. Tyson donated them to the University of San Diego Anthropology Department as part of a larger donation of human and non-human remains assembled by Dr. Spencer L. Rogers. Dr. Rogers, a physical anthropologist, worked at San Diego State University, where he began to assemble the collection. He acquired human and non-remain remains from various sources, including biological supply houses, students, donors, and archeological expeditions (primarily in the Southwestern U.S.). Dr. Rogers brought the collection with him to the San Diego Museum of Man (now the Museum of Us), where he served as the Scientific Director and Ms. Tyson's supervisor. Dr. Rogers gave his collection to Ms. Tyson before he died in 2000.

One individual, an adult male, is represented by a cranium (no mandible). He has Unangan (aka Aleut) and Scandinavian features; well-developed brow ridges are a common Unangan feature after the arrival of the Russians in 1760. The second individual, likely an adult female, has Unangan features; the size of the temporalis and masseter musculature are consistent with Unangan ancestry. The green staining around both of her ears suggests the presence of copper earrings. Such earrings, together with the lighter coloration of the bone, would indicate that she was alive after 1760. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of San Diego

Officials of the University of San Diego have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two

individuals 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 Agdaagux Tribe of King Cove; Native Village of Akutan; Native Village of Atka; Native Village of Belkofski; Native Village of Unga; Pauloff Harbor Village; Pribilof Islands Aleut Communities of St. Paul & St. George Islands (Sain George Island and Saint Paul Island); Qagan Tayagungin Tribe of Sand Point [previously listed as Qagan Tayagungin Tribe of Sand Point Village]; and the Qawalangin Tribe of Unalaska (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 should submit a written request with information in support of the request to Derrick Cartwright, University of San Diego, 5998 Alcala Park, San Diego, CA 92110, telephone (619) 260–7632, email *dcartwright@sandiego.edu,* by September 16, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The University of San Diego is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: August 4, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–17564 Filed 8–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032427; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alabama Department of Transportation, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Alabama Department of Transportation (ALDoT) 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 Alabama Department of Transportation. 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 Alabama Department of Transportation at the address in this notice by September 16, 2021.

FOR FURTHER INFORMATION CONTACT: William B. Turner, Alabama Department of Transportation, 1409 Coliseum Boulevard, Montgomery, AL 36110, telephone (334) 242–6144, email *turnerw@dot.state.al.us.*

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 Alabama Department of Transportation, Montgomery, AL. The human remains were removed from the Mount Hope Site (1La601), Lawrence County, AL.

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 University of Alabama and the Alabama Department of Transportation professional staff in consultation with representatives of the Cherokee Nation; Eastern Band of Cherokee Indians; The Chickasaw Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Tribes''). [During a 6 February 2020 conference call that included representatives from The Tribes and ALDoT, it was agreed that Chickasaw Nation would take the lead and that ALDoT could proceed with a Notice of Inventory Completion for the human remains from 1La601].

History and Description of the Remains

During Phase III Data Recovery fieldwork in the Winter of 1994–1995, human remains representing, at minimum, one individual were removed from the Mount Hope Site (1La601) in Lawrence County, AL. Given difficult field conditions and the fragmentary nature of the human remains, accurate identification of the remains occurred only during subsequent laboratory work conducted at the University of Alabama Laboratory of Human Osteology. Based on the size and general features of the cranial fragments, the remains were determined to belong to a single adult who had been cremated. Given the fragmentary nature of the human remains and lack of identifying landmarks, specific age, sex, pathology, or trauma could not be determined. A total of 83 fragments was identified, 23 cranial and 60 post cranial. Recognizable cranial fragments include two frontal, two parietal, two mandible, and six temporal fragments. Limited evidence suggests that the post cranial fragments could be from upper limb bones. No known individual was identified. No associated funerary objects are present.

Determinations Made by the Alabama Department of Transportation

Officials of the Alabama Department of Transportation have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American, based on their cremated state and their recovery from a Pre-European Contact archeological site containing Paleoindian, Early Archaic, Middle Archaic, Late Archaic, and Woodland components. Given the depth of recovery, the human remains are to be associated with the most intensive period of site usage, which has been radiocarbon dated to around 7240 years B.P.

• 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), 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 Tribes.

• 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 Tribes.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Tribes.

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 the Alabama Department of Transportation, 1409 Coliseum Boulevard, Montgomery, AL 36110, telephone (334) 242–6144, email *turnerw@dot.state.al.us,* by September 16, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Alabama Department of Transportation is responsible for notifying The Tribes that this notice has been published.

Dated: August 4, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–17563 Filed 8–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032431; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Logan Museum of Anthropology, Beloit College, Beloit, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Logan Museum of Anthropology, Beloit College 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 Logan Museum of Anthropology, Beloit College. 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 Logan Museum of Anthropology, Beloit College, at the address in this notice by September 16, 2021.

FOR FURTHER INFORMATION CONTACT: Nicolette B. Meister, Director, Logan Museum of Anthropology, Beloit College, Beloit, WI 53511, telephone (608) 363–2305, email *meistern@beloit.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 the Logan Museum of Anthropology, Beloit College, Beloit, WI. The human remains were removed from San Nicolas Island, Ventura 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. 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 Logan Museum of Anthropology, Beloit College professional staff in consultation with representatives of the Pala Band of Mission Indians [previously listed as Pala Band of Luiseno Mission Indians of the Pala Reservation, California]; Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California; Rincon Band of Luiseno Mission Indians of Rincon Reservation, California; Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California; Soboba Band of Luiseno Indians, California; and the following non-federally recognized Indian groups the Gabrielino/Tongva Nation; Gabrieleno/Tongva San Gabriel Band of Mission Indians; and the Traditional Council of Pimu/Ti'at Society. The La Jolla Band of Luiseno Indians, California [previously listed as La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation] was invited but did not participate. Hereafter, all the Indian Tribes and groups listed in this section are referred to as ''The Consulted and Invited Tribes and Groups.''

History and Description of the Remains

Sometime between 1875 and 1889, human remains representing, at minimum, five individuals were removed from San Nicolas Island, Ventura County, CA. The human remains were removed by amateur archeologist Reverend Stephen Bowers, who sold them to the Logan Museum on an unknown date. Reverend Bowers made multiple collecting trips to San Nicolas between 1875 and 1889. He removed thousands of cultural items, which were later sold to museums and collectors. Between 1880 and 1881, Reverend Bowers owned two newspapers in Wisconsin, one in Clinton and the other in Beloit. These newspapers provide the context for his sale of cultural items to the Logan Museum. The human remains belong to two adults of unknown sex, one adult male, one child six years old, and one individual of unknown age and sex. No known individuals were identified. No associated funerary objects are present.

The human remains are Native American based on archeological, biological, and geographical evidence. Archeological evidence suggests that before their removal in the early 19th century by the padres of the California mission system, people had occupied San Nicolas Island for a least 10,000 years.

Determinations Made by the Beloit College, Logan Museum of Anthropology

Officials of the Logan Museum of Anthropology, Beloit College 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 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 La Jolla Band of Luiseno Indians, California [previously listed as La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation]; Pala Band of Mission Indians [previously listed as Pala Band of Luiseno Mission Indians of the Pala Reservation, California]; Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Luiseno Mission

Indians of the Pechanga Reservation, California; Rincon Band of Luiseno Mission Indians of Rincon Reservation, California; Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California; and the Soboba Band of Luiseno Indians, California (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 should submit a written request with information in support of the request to Nicolette B. Meister, Logan Museum of Anthropology, Beloit College, 700 College Street, Beloit, WI 53511, telephone (608) 363–2305, email *meistern@beloit.edu,* by September 16, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Logan Museum of Anthropology, Beloit College is responsible for notifying The Consulted and Invited Tribes and Groups that this notice has been published.

Dated: August 4, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–17567 Filed 8–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032430; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent to Repatriate Cultural Items: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and Pueblo Grande Museum, City of Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, Bureau of Indian Affairs (BIA), assisted by the Pueblo Grande Museum (PGM), in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. 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 BIA through the Pueblo Grande Museum. 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 BIA through the Pueblo Grande Museum at the address in this notice by September 16, 2021.

FOR FURTHER INFORMATION CONTACT: Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E Washington Street, Phoenix, AZ 85034, telephone (602) 534–1572, email *lindsey.vogel-teeter@phoenix.gov.*

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 U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Pueblo Grande Museum, City of Phoenix, AZ, that meet the definition of sacred objects 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

At an unknown date, 16 cultural items were removed from an unidentified cave located on the Fort McDowell Indian Reservation in Maricopa County, AZ. The cultural items were removed by a private citizen and were subsequently transferred to PGM. The museum catalogued the collection in February 1960. The 16 sacred objects are 15 cane cigarettes and one corn cob.

Expert opinion provided by representatives of the Fort McDowell Yavapai Nation supports the use of these cultural items in ceremonies performed by traditional Yavapai religious practitioners. Once placed in the cave, the cultural items were not to be disturbed. The location where the cultural items were found (*i.e.,* within the boundaries of the Fort McDowell Indian Reservation) lies within the ancestral lands of the Yavapai people. Expert opinion provided by representatives of the Ak-Chin Indian Community [previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona]; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona, as well as ethnographic documentation, also support the use of these cultural items in ceremonies performed by traditional O'odham religious practitioners. Furthermore, the area where the items were found lies within the region recognized by government and tribal authorities as O'odham aboriginal land.

Determinations Made by the U.S. Department of the Interior, Bureau of Indian Affairs and Pueblo Grande Museum

Officials of the U.S. Department of the Interior, Bureau of Indian Affairs and Pueblo Grande Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the 16 cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Fort McDowell Yavapai Nation, 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 Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E. Washington Street, Phoenix, AZ 85034, telephone (602) 534–1572, email *lindsey.vogel-teeter@phoenix.gov,* by September 16, 2021. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Fort McDowell Yavapai Nation, Arizona may proceed.

The U.S. Department of the Interior, Bureau of Indian Affairs assisted by the Pueblo Grande Museum are responsible for notifying the Fort McDowell Yavapai Nation, Arizona that this notice has been published.

Dated: August 4, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–17566 Filed 8–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032425; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan 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 no cultural affiliation between the human remains and associated funerary objects 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 and associated funerary objects should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects 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 and associated funerary objects should submit a written request with information in support of the request to the University of Michigan at the address in this notice by September 16, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan, Office of Research, 4080 Fleming Building, 503 Thompson St., Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.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 University of Michigan, Ann Arbor, MI. The human remains and associated funerary objects were removed from Antrim, Newaygo, and Roscommon Counties, MI.

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 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 and associated funerary objects was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rock Boy's Reservation, Montana [previously listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana]; Grand Traverse Band of Ottawa and Chippewa Indians, 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 Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band); Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; 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; Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Ottawa Tribe of Oklahoma; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota were invited to consult but did not participate.

Hereafter, all Tribes listed in this section are referred to as ''The Tribes.''

History and Description of the Human Remains

On unknown dates in, or before, 1924, human remains representing, at minimum, two individuals were removed from the Leavitt Mound site (20AN2) in Antrim County, MI. The site is located near Grass Lake, and human remains and objects were removed from the site on multiple occasions. In August of 1924, an amateur collector removed human cranial remains from the site and subsequently donated them to the UMMAA. The human remains represent one adult, 30–60 years old, female. In the summer of 1924, a second amateur collector removed objects from the site and in September of 1924 donated them to the UMMAA. On an unknown date, a third amateur collector removed human cranial remains from the site and in November of 1924 sold them to the UMMAA. The human remains are one adult, female. The site has been dated to the Middle Woodland Period (300 B.C.–A.D. 500) based on the diagnostic artifacts. No known individuals were identified. The three associated funerary objects present are one lot of stone pipe preform made from Petoskey Stone, one lot of gray chert biface and side-notched projectile point, and one lot of shell bowl.

In August of 1928 and on an unknown date in 1965, human remains representing, at minimum, five individuals were removed from the Brooks Mound site (20NE1) in Newaygo County, MI. The Brooks Mound site is located in Brooks Township near the Muskegon River and consists of a complex of several mounds of varying sizes. In 1928, an archeologist from the UMMAA excavated two mounds at the site. Human remains from two individuals were removed from Mound A. One individual was interred in a crouching position with the head far down upon the chest. A dark red pigment was noted covering the person's face. The individual was buried with a platform pipe. A ceramic vessel, which originally held pieces of the red pigment, and a small turtle carapace were placed near the left shoulder, and multiple salt water species shell beads were placed near the left side of the person's jaw. Multiple individuals were noted in Mound 6 (possibly also known as Mound Q). The mound was described as containing an oblong burial pit where a bundle burial of three crania and long bones of five individuals were interred. Near the top of the burial was a ceramic vessel containing red sand and decorated with curvilinear lines with short cross-hatching. A second ceramic vessel was

also removed from the mound. It was noted as being small, with a constricted neck, three incised bands, and the body drawing to an ''egg point'' on the bottom. The mounds were described as lacking distinct stratification and were streaked throughout with charcoal, ash, and fire-cracked rock. Between 1965 and 1966, another archeologist from the UMMAA excavated the site again. Additional human remains and objects were identified in the backfill dirt from the 1928 excavation of Mound A as well as from an Unknown Feature. The human remains from the site are one young adult, indeterminate sex; one adult, possibly male, with cranial modification; one adult, possibly female, with cranial modification; one juvenile; and one cremated adult. The site has been dated to the Middle Woodland Period (300 B.C.–A.D. 500) except for the intrusive burial in Mound A, which dates to the Early Late Woodland Period (A.D. 500–1000), and the Unknown Feature, for which a date could not be determined. Dating was based on the burial treatment and diagnostic artifacts. No known individuals were identified. The 27 associated funerary objects present are one lot of earthenware from two vessels; one lot of platform pipe with charred botanical remains; one lot of red ochre and coarse sandy soil sample; one lot of slate pendants; one lot of lithic blade; six lots of earthenware sherds; one lot of lithic flake; one lot of lithic blade fragment; one lot of lithic blade and lithic blade fragment; one lot of beaver incisor fragment; two lots of shell bead; one lot of corner-notched projectile point; one lot of a piece of sandstone; one lot of earthenware sherds and antler point fragment; one lot of lithic flakes and lithic scraper; one lot lithic blade fragments; one lot circular lithic biface; one lot lithic biface; one lot quartzite biface; one lot lithic biface; and one lot soil sample.

Beginning on July 6, 1965, human remains representing, at minimum, three individuals were removed from the Carrigan Mound A site (20NE106) in Newaygo County, MI. The mound is the largest of a complex of five mounds located in Croton Township, near the confluence of the Big and Muskegon Rivers. A UMMAA archeologist excavated two burials from Carrigan Mound A. The first was an infant in the central portion of the mound. A large, partially articulated dog was also noted as interred in the mound. The second burial was described as a carbonaceous pit which held a child buried in a flexed, upright position with the individual resting on their heels and with their head facing northwest. The pit contained some charcoal; however, the human remains in this burial showed no sign of burning. The individual was interred with multiple objects located in the person's lap. Two hearths were also found within the mound near its base containing cremated bone and projectile points. Museum records note all of the burials from this site as being intrusive into the mound. The human remains are from one infant, 16–32 months old; one child, 7.5–12.5 years old; and one cremated adult. Carbon 14 analysis of a charcoal log located beneath the burial of the child was dated to A.D. 680 +/− 120 years and the two hearths found within the mound were dated to 540 B.C. +/− 150 years and 590 B.C. +/− 150 years. The site is dated to the Early Woodland Period (850 B.C–A.D. 1000) and Early Late Woodland Period (A.D. 500–1000) based on C14 analysis and diagnostic artifacts. No known individuals were identified. The 46 associated funerary objects present are one lot of shell beads; one lot of beaver incisor fragments; one lot of bifacial slate tool; one lot of ochre-stained ground stone gorget; one lot of antler tool fragments with soil, one lot of yellow ochre-stained soil concretions with an embedded lithic; one lot of lithic debitage fragments and soil concretions; one lot of lithic bifaces, flake, earthenware sherds, and soil concretions with yellow ochre; one lot of lithic drill and clay fragment; one lot of lithic biface fragment; one lot of stone celt; one lot of quartzite flake; one lot of antler tine tool; one lot of deer bone tool fragments and beaver incisor fragment with sand; one lot of grinding stones; one lot of copper pin hafted in faunal bone and faunal bone fragment; one lot of copper pin; one lot of beaver incisor fragment; one lot of corner-notched projectile point and triangular biface blank; one lot of lithic scraper; one lot of faunal bone bead; one lot possible fire-cracked rock; one lot lithic debitage fragments; one lot unworked fossil fragments; one lot cremated and non-cremated faunal bone and unworked fossil; one lot rounded stone; one lot lithic debitage fragments, unworked pebbles, and cremated faunal bone fragments; one lot possible lithic debitage fragments; one lot earthenware sherd; one lot earthenware rim sherd; one lot soil sample with concretion, stone, botanicals, charcoal, and faunal bone fragments; one lot charcoal with sand; one lot conifer charcoal with sand; one lot charcoal; one lot charcoal with soil; one lot lithic debitage fragment; one lot lithic debitage fragment; one lot lithic debitage fragment; one lot soil sample; one lot lithic debitage fragment and charcoal; one lot cremated faunal bone fragments with soil; one lot faunal bone fragments, pebble, disintegrating sandstone, and unworked snail shell fragment; one lot earthenware rim sherd; one lot soil sample with charcoal; one lot Quercus sp. charcoal fragments with soil and stone; and one lot possible Canis sp. faunal bone fragments.

On an unknown date in 1965, human remains representing, at minimum, 33 individuals were removed from the Mallon Mounds site (20NE31) in Newaygo County, MI. The site consists of a series of mounds located south of the Muskegon River near Bills Lake. The site was subjected to intense looting over the years, as well as an excavation conducted by amateur collectors in 1954. In 1965, an archeologist from the UMMAA excavated Mounds A, B, E, F, and H at the site. The Museum holds only the human remains and objects from this UMMAA-led excavation. The mounds contained bundle burials, extended burials, and cremations. Some interments were believed to be secondary burials. Mound A was between 2.5 and 3 feet high with a diameter of 35 feet. A ceramic vessel was placed at the right shoulder of one of the extended individuals. Mound B was 2 feet high with a diameter of 35 feet and described as holding three distinct burials. Burned animal bone and ceramic sherds were associated with two of the burials. Mound E was the smallest of the group that was excavated and had previously been cut into by a dirt trail. This mound was estimated to have a height of 12 inches and a diameter of 19 feet. Mound F was the largest of the group at 2 feet high with a diameter of 50 feet. Mound H was 2.5 feet high with a diameter of 33 feet, and ceramic sherds from two distinct vessels were noted as associated with a partial *in-situ* secondary burial of two individuals. Both Mounds F and H showed evidence of previous looting. The human remains are two infants, 8–16 months old; one infant, 2–4 years old; two children, 3–5 years old; one child, 6–10 years old; two children, 7.5–12.5 years old; one juvenile, less than 16 years old; one juvenile, less than 18 years old; one adolescent/young adult, 16–22 years old; one adolescent/young adult; one adult, 18–24 years old; one adult, 20–45 years old, possible female with a post-mortem perforation and cranial modification; one adult, 20–30 years old, possible female; one adult, 24–40 years old, possible female with dental caries; one adult, 24–40 years old, possible male with supernumerary

tooth; one adult, 24–40 years old, possible male; one adult, 25–55 years old, possible male with osteoarthritis, fused vertebrae, and dental abscesses; one adult, 25–60 years old, possible male with a possible infection; one adult, 30+ years old; one adult, 35+ years old, possible male with a possible infection; one adult with a possible infection; six adults; and four cremated adults. The site has been dated to the Late Middle Woodland/Early Late Woodland Period (300 B.C.–A.D. 1000) based on diagnostic artifacts. No known individuals were identified. The 28 associated funerary objects present are one lot of copper pan pipe with botanical insert, quadrilobate ceramic vessel, and soil sample; 11 lots of earthenware sherds; one lot of earthenware sherds and charcoal fragments; one lot faunal bone fragments; one lot earthenware sherds; one lot soil sample with rocks and faunal bone fragments; one lot soil sample with pebbles, charcoal, and botanical inclusions; one lot side-notched projectile point; one lot soil sample with stones and botanical inclusions; one lot soil sample with stones; one lot soil sample; one lot charcoal, sand, and pebbles; one lot charcoal and botanical inclusions; one lot soil sample with charcoal, pebbles, and cremated faunal bone fragments; one lot charcoal and lithic flake; one lot soil sample with charcoal; one lot charcoal fleck fragments with sand; and one lot soil sample with charcoal and lithic inclusions.

In October and November of 1956, human remains representing, at minimum, six individuals were removed from the Palmiteer Mound site (20NE101) in Newaygo County, MI. Two amateur collectors excavated Mound 3, which is part of a larger mound group, located near the Muskegon River. The oblong burial pit within the mound was noted to contain a bundle burial, a Busycon sp. conch shell, 200 copper beads, and an antler bone tool. Only the human remains were donated to the UMMAA soon after they were excavated. At a later date, the UMMAA received two copper beads from a different collector that were also recorded as being from the site. The human remains are one infant 18 months to 2 years old; one child 4–6 years old; one juvenile; one adolescent 12–15 years old; one adult 35+ years old, sex indeterminate with a possible underlying infection; and one adult, sex indeterminate. The site has been dated to the Middle Woodland Period (300 B.C.–A.D. 500) based on the burial treatment and diagnostic artifacts. No known individuals were identified. The three associated funerary objects present are one lot of copper beads; one lot unworked faunal bone fragment; and one lot unworked faunal bone fragments.

On an unknown date in 1847, human remains representing, at minimum, one individual were removed from the St. Helen's Lake site in Roscommon County, MI. The human remains and earthenware sherd were removed from a mound, and donated to UMMAA by a person associated with the Michigan Geological Survey from the Department of Conservation. It is unclear how the site was excavated and if the human remains are associated with the sherd. The human remains are one adult 30–50 years, sex indeterminate. No known individual was identified. The site is dated to the Early Late Woodland based on the earthenware sherd. The one associated funerary object is one lot earthenware sherd.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, accession documentation, and archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 50 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 108 objects described in this notice is 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), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects 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 and associated funerary objects were removed is the aboriginal land of The Tribes.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

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 and associated funerary objects should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan, Office of Research, 4080 Fleming Building, 503 Thompson St., Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by September 16, 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.

The University of Michigan is responsible for notifying The Tribes that this notice has been published.

Dated: August 4, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–17561 Filed 8–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032426; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Baylor University's Mayborn Museum Complex, (Formerly Baylor University's Strecker Museum; Formerly Baylor University Museum), Waco, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Baylor University's Mayborn Museum Complex (formerly Baylor University's Strecker Museum; formerly Baylor University Museum), in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, 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 Baylor University's Mayborn Museum Complex. 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 Baylor University's Mayborn Museum Complex at the address in this notice by September 16, 2021.

ADDRESSES: Anita L. Benedict, Baylor University's Mayborn Museum Complex, One Bear Place #97154, Waco, TX 76798–7154, telephone (254) 710–4835, email *anita_benedict@baylor.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 Baylor University's Mayborn Museum Complex, Waco, TX. The human remains and associated funerary objects were removed from Bell, Falls, Harris, Hill, and McLennan Counties, TX.

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 Baylor University's Mayborn Museum Complex professional staff in consultation with representatives of the Caddo Nation of Oklahoma; Comanche Nation, Oklahoma; Kiowa Indian Tribe of Oklahoma; Tonkawa Tribe of Indians of Oklahoma; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma, hereafter referred to as ''The Tribes.''

History and Description of the Remains

Sometime prior to January 9, 1990, human remains representing, at minimum, three individuals were removed from the Lake Belton Site, Bell County, TX. Remains belonging to one individual of indeterminate age and sex (AR 16317–AR 16361) were collected on an unknown date by an unknown person and were given to Tommy Thompson. On January 8, 1990, human remains belonging to two individuals of indeterminate age and sex (AR 16362–AR 16364 and AR 16374–AR 16387) were collected by Mr. Thompson. On January 8, 1990, Mr. Thompson donated the human remains of the three individuals, together with their associated funerary objects, to the Museum. No known individuals were identified. The 30 associated funerary objects are two projectile points (AR 16365, AR 16389); 15 animal remains (AR 16366–AR 16373, AR 16402–16408); one knife (AR 16388); four scrapers (AR 16390–AR 16393); four cores (AR 16394–AR 16397); and four rocks (AR 16398–AR 16401).

In June 1953, human remains representing, at minimum, two individuals were removed from a shelter along the Leon River near Bland, Bell County, TX, by James Geiselbrecht, an individual named Jones, and others, who later donated them to the Museum. The human remains belong to a female aged 27–30 years (AR 3443) and an individual of undetermined age and sex (AR 20916). No known individuals were identified. No associated funerary objects are present.

On July 22, 1984, human remains representing, at minimum, one individual were removed from the Lake Belton area, near the Leon River, Bell County, TX. The human remains and funerary object were collected by Carol A. Dorough. Ms. Dorough donated the human remains to the Museum on July 24, 1984. The human remains (AR 20800) belong to an adult male. No known individual was identified. The one associated funerary object is one lot of stone tools, shells, and an animal tooth (AR 20901).

On an unknown date, human remains representing, at minimum, one individual were removed from an unidentified site near Satin, Falls County, TX. The human remains were collected and donated to the Museum by J.M. Henshaw. The human remains (AR 4021–A–T) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from an unidentified site near La Porte, Harris County, TX, by an unknown individual. Subsequently, the remains were given to the YMCA in Waco, TX, by Mrs. Gillespie. In 1903, the human remains were donated to the Museum. The human remains (AR 20802) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

On August 7, 1983, human remains representing, at minimum, one individual were removed from a location near Aquilla, Hill County, TX, by Theodore A. Urbanovsky. On August 11, 1983, the human remains were donated to the Museum. The human remains (AR 12877) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present. (The accession record also includes a donation of bison bones (P 4718) and some charcoal (disposition unknown) from the same locality. These donated items had been found together with a flint dart point, which was not part of the donation.)

Sometime prior to 1906, human remains representing, at minimum, one individual were removed from 220 N 6th St./6th St. and Columbus Ave. in Waco, McLennan County, TX. The human remains and an associated funerary object were collected and donated by John K. Strecker. The human remains (AR 4012) belong to an individual of indeterminate age and sex. No known individual was identified. The one associated funerary object is a projectile point (AR 4040).

In the fall of 1941, human remains representing, at minimum, two individuals were removed from the Asa Warner Site #2 (41ML46) in McLennan County, TX. In September of 1941, human remains belonging to a male aged 35–40 years (AR 15403) were removed by Frank H. Watt, Clyde Webb, Sam Horne, and J.E. Hawkins. On October 19, 1941, human remains belonging to a young adult male (AR 20808) were removed by Otis Marrs, an individual named Richardson, and Frank H. Watt. On October 13, 1941, a fragmentary shell pendant (AR 20793) was collected by Marrs, Richardson, and Watt. Sometime between September of 1941 and December of 1942, a shell pendant made from a large seashell (AR 20794) was collected by an unknown person. In June of 1995, the University of Texas at Austin Texas Archeological Research Laboratory (TARL) donated the above-described items to the Museum. (Missing are remains belonging to one individual (AR 15404) collected by the TARL Field School in June of 1973 and donated to the Museum.) No known individuals were identified. The two associated funerary objects are two shell pendants (AR 20793 and AR 20794).

During the summer of 1987, human remains representing, at minimum, one individual were removed from the Braswell Property, Lorena, McLennan

County, TX, by Robert Braswell and the Director of the Museum, Calvin B. Smith. The human remains (AR 20804) belong to an adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

On February 28, 1936, human remains representing, at minimum, 11 individuals were removed from the Brazos Mass Burial Site in Waco, McLennan County, TX. Dr. William P. Meroney, who was notified of the burial on February 27, 1936, collected the remains, together with Frank H. Watt and the Central Texas Archaeology Society (CTAS). On October 20, 1938, remains belonging to seven of the 11 individuals were loaned to the Museum by CTAS (AR 12771–A–GG, AR 2980–A–B, AR 3341–A–B, AR 3342–A–B, AR 4016–A–B, AR 4019–A–B, AR 4023–A–B). In 1980, Frank Watt transferred his entire collection, including the remains of two individuals, from the Brazos Mass Burial Site, to Baylor University, and named Dr. John Fox as the administrator for the collection. In 1985 and 1991, Dr. Fox donated the remains of two of the two individuals he received from Watt to the Museum (AR 12772, AR 15405). On an unknown date, an unknown person donated the remains of two additional individuals to the Museum (AR 2991, AR 12777). The human remains belong to one male aged 65 years (AR 12771–A–GG); one individual of undetermined sex aged four years (AR 12772); one male aged 60 years (AR 15405–A–C); one male aged 20 years (AR 2980–A–B); one female aged 18 years (AR 3341–A–B); one male aged 65 years (AR 3342–A–B); one female aged 25 years (AR 4016–A–B); one male aged 50 years (AR 4019–A–B); one female aged 16 years (AR 4023–A–B); one child aged seven years (AR 2991); and one individual of undetermined sex and age (AR 12777). No known individuals were identified. No associated funerary objects are present.

In April of 1972, human remains representing, at minimum, one individual were removed from an unidentified site near Cow Bayou, 10 miles southwest of Waco, in McLennan County, TX, by Bill Taylor. The human remains were donated to the Museum on January 3, 1974. The human remains (AR 12763–A–P) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

On September 14, 1930, human remains representing, at minimum, one individual were removed from a gravel pit 14 miles east of Waco on the Brazos River, in McLennan County, TX, by Frank Bryce, J.M. Henshaw, and Kenneth H. Aynesworth. At an unknown date, the remains were donated to the Museum. The human remains (AR 5599–A–B) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

In August of 1967, human remains representing, at minimum, one individual were removed from an Indian burial ground located along the Middle Bosque River near Crawford, in McLennan County, TX. The human remains were collected by Brent A. Brown and Jim Shumard. They were donated to the Museum on November 11, 1969. The human remains (AR 12768–A–EE) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

On May 8, 1961, human remains representing, at minimum, two individuals were removed from the North Bosque River area, near China Spring, in McLennan County, TX. The human remains, along with associated funerary objects, were collected and donated to the Museum by Horace Huskerson. The human remains belong to one adult of indeterminate sex (AR 12762) and one child of indeterminate sex (AR 20902). No known individuals were identified. The six associated funerary objects are one animal femur (AR 20903), four rusted iron bracelets (AR 20904–AR 20907), and one bracelet of blue clay and white shell (AR 20908).

In August of 1963, human remains representing, at minimum, two individuals were removed from Lake Waco in Waco, McLennan County, TX. The human remains were collected by the Director of the Museum, Bryce C. Brown. Both individuals (AR 12765, AR 12766–A–V) are of indeterminate age and sex. No known individuals were identified. No associated funerary objects are present.

Sometime prior to May of 1937, human remains representing, at minimum, one individual were removed from an unidentified site near Waco, in McLennan County, TX, by an unknown person. According to Museum donation records, sand on the human remains was thought to be from the Brazos River, near Waco. The human remains were donated to the Museum by E.M. Thorpe in May of 1937. The human remains (AR 2978–A–WW) belong to a male aged 55–60 years. No known individual was identified. No associated funerary objects are present.

During the summer of 1987, human remains representing, at minimum, one individual were removed from an unidentified site south of Lorena, in McLennan County, TX. The human remains, along with associated funerary objects, were collected by the Director of the Museum, Calvin B. Smith. The human remains (AR 20812) belong to an individual of indeterminate age and sex. No known individual was identified. The one associated funerary object is one lot of animal remains (AR 20795).

Sometime prior to May 19, 1937, human remains representing, at minimum, two individuals were removed from a farm located east of Waco, in McLennan County, TX, by Treneo Ruiz. The human remains were purchased by the Museum on May 19, 1937. Both individuals (AR 12760–A–S, AR 20811) are of indeterminate age and sex. No known individuals were identified. No associated funerary objects are present.

On April 11, 1974, human remains representing, at minimum, one individual were removed from an unidentified site near Highway 6 and Tehuacana Creek, in McLennan County, TX, by Frank L. Haedage and donated to the Museum. The human remains (AR 12764–A–K) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

On December 30, 1989, human remains representing, at minimum, one individual were removed from a previously disturbed burial on Trading House Creek Reservoir, in McLennan County, TX. The human remains were collected by the Director of the Museum, Calvin B. Smith. The human remains (AR 20803) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the White Rock Gravel Pit in Waco, McLennan County, TX, by the Lattimores and donated to the Museum. The human remains (AR 4017) belong to an individual of indeterminate age and sex. No known individual was identified. No associated funerary objects are present.

Determinations Made by Baylor University's Mayborn Museum Complex

Officials of Baylor University's Mayborn Museum Complex have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 38 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 41 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 Tribes based on geographic evidence.

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 Anita L. Benedict, Baylor University's Mayborn Museum Complex, One Bear Place #97154, Waco, TX 76798–7154, telephone (254) 710–4835, email *anita_benedict@baylor.edu,* by September 16, 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.

Baylor University's Mayborn Museum Complex is responsible for notifying The Tribes that this notice has been published.

Dated: August 4, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–17562 Filed 8–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032429; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC and University of Montana, Missoula, MT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, Bureau of Indian Affairs (BIA), assisted by the University of Montana, 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 who wish to request transfer of control of these human remains should submit a written request to the BIA through the University of Montana. 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 who wish to request transfer of control of these human remains should submit a written request with information in support of the request to the BIA through the University of Montana at the address in this notice by September 16, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Dixon, University of Montana, Missoula, MT 59812, telephone (406) 243–2693, email *kelly.dixon@mso.umt.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 the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC and in the physical custody of the University of Montana, Missoula, MT. The human remains were removed from the Crow Reservation, Big Horn County, MT.

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 on behalf of the BIA by the University of Montana professional staff in consultation with representatives of the Crow Tribe of Montana.

History and Description of the Remains

Around 1946, human remains representing, at minimum, four individuals were removed from a ''battlefield in Crow Country'' in Big Horn County, MT, by Albert H. Sletton, who donated them to the University of Montana. The human remains belong to four adult males. Two individuals are represented by mandibles (UMACF #I6916 and #I16918), a third individual is represented by a skull (cranium and mandible; UMACF #I6919), and a fourth individual is represented by a partial cranium showing sharp force perimortem trauma (UMACF #I6916). No known individuals were identified. No associated funerary objects are present.

The area of Big Horn County and the Crow Reservation includes several battlefields—including the Battle of the Little Big Horn and Rosebud Battlefield—where human remains exist.

Determinations Made by the U.S. Department of the Interior, Bureau of Indian Affairs and University of Montana

Officials of the U.S. Department of the Interior, Bureau of Indian Affairs and the University of Montana have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals 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 Crow Tribe of Montana.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe not identified in this notice who wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Kelly Dixon, University of Montana, Missoula, MT 59812, telephone (406) 243–2693, email *kelly.dixon@mso.umt.edu,* by September 16, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Crow Tribe of Montana may proceed.

The U.S. Department of the Interior, Bureau of Indian Affairs, assisted by the University of Montana, is responsible for notifying the Crow Tribe of Montana that this notice has been published.

Dated: August 4, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–17565 Filed 8–16–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0087]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension Without Change of a Currently Approved Collection; eForm Access Request/User Registration

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 days until September 16, 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.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension without change of a currently approved collection.

(2) *The Title of the Form/Collection:* eForm Access Request/User Registration.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for profit.

Other: None.

Abstract: Members of the public will use the eForm Access Request/User Registration to create a username and password for access to the Bureau of Alcohol, Tobacco, Firearms, and Explosives' (ATF's) eForms platform, which is an electronic application filing system.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 76,000 respondents will complete this registration form annually, and it will take each respondent approximately 2.24 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 2,387 hours, which is equal to 76,000 (# of respondents) * .037333333 (2.24 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Mail Stop 3E.405A, Washington, DC 20530.

Dated: August 12, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–17611 Filed 8–16–21; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0049]

Agency Information Collection Activities: Proposed eCollection, eComments Requested; Reinstatement of a Discontinued Collection: Recordkeeping for Electronic Prescriptions for Controlled Substances

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Drug Enforcement Administration (DEA), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 18, 2021.

FOR FURTHER INFORMATION CONTACT: If you have comments on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A. Brinks, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3261.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement of a discontinued collection.

2. *Title of the Form/Collection:* Recordkeeping for Electronic Prescriptions for Controlled Substance.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no form number. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: DEA is requiring that each registered practitioner apply to an approved credential service provider approved to obtain identity proofing and a credential. Hospitals and other institutional practitioners may conduct this process in-house as part of their credentialing. For practitioners currently working at or affiliated with a registered hospital or clinic, the hospital/clinic have to check a government-issued photographic identification. This may be done when the hospital/clinic issues credentials to new hires or newly affiliated physicians. For individual practitioners, two people need to enter logical access control data to grant permissions for practitioners authorized to approve and sign controlled substance prescriptions using the electronic prescription application. For institutional practitioners, logical access control data is entered by two people from an entity within the hospital/clinic that is separate from the entity that conduct identity proofing in-house. Similarly, pharmacies have to set logical access controls in the pharmacy application so that only authorized employees have permission to annotate or alter prescription records. Finally, if the electronic prescription or pharmacy application generates an incident report, practitioners, hospitals/clinics, and pharmacies have to review the incident report to determine if the event identified by the application represents a security incident.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The below table presents information regarding the number of respondents, hour burden per responses and associated burden hours.

	Number of respondents	Hour burden per response	Burden hours
Practitioners	78,164	0.67	52,370
MLP	49,067	0.67	32,875
Hospital/Clinics	1,482	2.13	3,157
Pharmacies	3,984	0.33	1,315
Total	132,697		89,717

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* DEA estimates that this collection takes 89,717 annual burden hours.

If additional information is required please contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: August 11, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–17523 Filed 8–16–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Respiratory Protection Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before September 16, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456 or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This standard requires employers to develop a written respiratory protection program, provide medical surveillance, fit test employees, obtain certificates of analysis on cylinders, change sorbent beds and filters, to inspect emergency-use respirators, mark emergency-use respirator storage compartments, and maintain accurate employee records for fit testing and medical surveillance. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 9, 2021 (86 FR 18557).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently

valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Respiratory Protection Standard.

OMB Control Number: 1218–0099.

Affected Public: Private Sector: Businesses or other for-profits.

Total Estimated Number of Respondents: 699,048.

Total Estimated Number of Responses: 27,655,682.

Total Estimated Annual Time Burden: 8,400,365 hours.

Total Estimated Annual Other Costs Burden: $406,397,821.88.

(Authority: 44 U.S.C. 3507(a)(1)(D)).

Crystal Rennie,

Senior PRA Analyst.

[FR Doc. 2021–17552 Filed 8–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice includes the summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before September 16, 2021.

ADDRESSES: You may submit your comments including the docket number of the petition by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Jessica D. Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Senk.Jessica@dol.gov* (email), or 202–693–9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2021–026–C.

Petitioner: Marion County Coal Resources, Inc., 151 Johnnycake Road, Metz, West Virginia (Zip 26585).

Mine: Marion County Mine, MSHA ID No. 46–01433, located in Marion County, West Virginia.

Regulation Affected: 30 CFR 75–1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.1700, as it relates to oil and gas wells at the mine. The operator is petitioning to plug two gas wells in the Marcellus shale.

The petitioner states that:

(a) The Marion County Mine desires to plug two ''unconventional'' gas wells in the Marcellus shale not covered by the Consent Order at docket No. 2017–MSA–06. These are:

(1) The Esther Clark 1H Marcellus Gas Well American Petroleum Institute (API) #: 47–061–01616; and

(2) The Esther Clark 3H Marcellus Gas Well API #: 47–061–01623.

(b) The Marion County Mine employs approximately 712 miners and produces approximately 25,000 tons of bituminous coal per day from the Pittsburgh #8 coal seam with an average mine height of 84 inches. At this time, there are no coal seams being mined stratigraphically down section from the Pittsburgh seam. The mine is accessed through one slope and eight airshafts. The mine operates three production shifts per day, five days per week, on three working sections—one longwall, an advancing gate section, and a mains section utilizing continuous mining machines. The mine liberates 9,000,000 cubic feet of methane on a daily basis.

(c) On July 5, 2018, MSHA and Marion County entered into a settlement concerning the contest of certain conditions in a Proposed Decision and Order concerning 30 CFR 75.1700 at docket No. 2017–MSA–06. That agreement specifically excluded certain types of wells as follows: Unconventional wells in the Marcellus and Utica, and all other unconventional shale oil and gas wells are not subject to this modification.

The petitioner proposes the following alternative method:

(a) District Manager approval required.

(1) The mine operator shall maintain a safety barrier of 300 feet in diameter around the Esther Clark 1H and 3H Gas Wells until the District Manager approves to proceed with mining.

(2) Prior to mining within the safety barrier around these wells, the mine operator shall provide to the District Manager a sworn affidavit or declaration executed by the company official who is in charge of health and safety at the mine stating that all mandatory procedures for cleaning out, preparing, and plugging each gas well have been completed. The affidavit or declaration must be accompanied by all logs, electronic or otherwise, described below in section (b) (7) and any other records the District Manager requires.

(3) This petition applies to all types of underground coal mining at the mine.

(b) The petitioner proposes to use the following mandatory procedures, when cleaning out and preparing the Ester

Clark IH and 3H Gas Wells prior to plugging.

(1) The mine operator shall test for gas emissions inside the hole before cleaning out, preparing, and plugging gas wells. The District Manager shall be contacted if the well is actively producing gas.

(2) Since these wells are unconventional and greater than 4,000 feet in depth, a diligent effort shall be made to remove all the casing in the well and clean the well down to the original arrowset packer installed just above the ''kick off point'' in the well. The mine operator shall completely clean out the well from the surface to at least the same arrowset packer originally installed. The mine operator shall provide the District Manager with all information it possesses concerning the geological nature of the strata and the pressure of the well. The mine operator shall make a diligent effort to remove all material from the entire diameter of the well, wall to wall.

(3) Since these wells are no longer producing and are being cleaned and prepared subject to this petition, the operator must attempt to remove all of the casing using a diligent effort, and comply with all other applicable provisions of the decision and order.

(4) To make a diligent effort to remove the casing, the operator shall pull a minimum of 150% of casing string weight and/or have made at least three attempts to spear or overshot to grip the casing for the required minimum pull effort. The operator shall keep a record of these efforts, including casing length and weight, and make the record available for MSHA review.

(5) Perforations or rips are required at least every 50 feet from 400 feet below the base of the Pittsburgh #8 coal seam up to 100 feet above the uppermost mineable coal seam. The mine operator must take appropriate steps to ensure that the annulus between the casing and the well walls are filled with expanding (minimum 0.5% expansion upon setting) cement and contain no voids.

(6) Jet/sand cutting is one method for cut, ripping, or perforating casing with three or more strings of casing in the Pittsburgh #8 coal seam in preparation for mining. This method uses compressed nitrogen gas and sand to cut the well casings. On active wells, cuts start at 200 feet above the bottom of the casing at 200 feet intervals, to 200 feet below the bottom of the Pittsburgh coal seam.

(7) The mine operator shall prepare down-hole logs for each well. Logs shall consist of a caliper survey, a bond log if appropriate, a deviation survey, and a gamma survey for determining the top, bottom, and thickness of all coal seams down to the coal seam to be mined or the lowest mineable coal seam, whichever is lower, potential hydrocarbon producing strata, and the location of any existing bridge plug. In addition, a journal shall be maintained describing: the depth of each material encountered; the nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; length of casing(s) removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well shall be maintained as part of this journal and provided to MSHA upon request.

(8) The mine operator shall make a diligent effort to remove the casing down to the arrowset packer installed just above the ''kick off point'' (where the well transitions from vertical to horizontal). If all of the vertical casing above the existing packer can be removed, the mine operator shall prepare the well for plugging and use seals described below. MSHA may retain the right to review and direct the mine operator's sealing protocol, in the event geologic or well conditions require further measures.

(9) If the District Manager concludes that the completely cleaned-out well is emitting excessive amounts of gas, the mine operator must place additional mechanical bridge plugs in the well.

(10) The mechanical bridge plug must be placed in a competent stratum at least 400 feet below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the District Manager requires a greater distance based on his judgment that it is required due to the geological strata or the pressure within the well. The mine operator shall provide the District Manager with all information he possesses concerning the geological nature of the strata and the pressure of the well. If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used. The mine operator shall document what has been done to ''kill the well'' and plug the hydrocarbon producing strata.

(11) If the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the Pittsburgh #8 coal seam, the mine operator shall properly place mechanical bridge plugs as described above in section (b) to isolate the hydrocarbon-producing stratum from the expanding cement plug.

(12) The mine operator shall place a minimum of 400 feet of expanding cement below the Pittsburgh #8 coal seam, unless the District Manager requires a greater distance based on his judgment that it is required due to the geological strata or due to the pressure within the well.

(c) The petitioner proposes to use the following mandatory procedures for plugging the Ester Clark 1H and 3H Gas Wells to the surface, after completely cleaning out the well.

(1) Cement is specified to be used as a plugging material.

(2) The mine operator shall pump cement slurry down the well to form a plug which runs from the original arrowset packer installed just above the ''kick off point'' in the well to 400 feet below the Pittsburgh #8 coal seam. The cement will be placed in the well under a pressure of at least 200 pounds per square inch. The mine operator shall pump expanding cement slurry down the well to form a plug which runs from 400 feet below the Pittsburgh #8 coal seam to the surface. The District Manager can modify the cementing plan based on his judgment due to the geological strata or the pressure within the well.

(3) The mine operator shall embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, a 4-inch or larger diameter casing, set in cement, shall extend at least 36 inches above the ground level with the API well number engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.,* prime farmland), high-resolution GPS coordinates (one-half meter resolution) are required.

(d) The petitioner proposes to use the following alternate procedures for preparing and plugging or replugging the Ester Clark IH and 3H Gas Wells.

(1) If it is not possible to remove all of the casing, the mine operator shall notify the District Manager before any other work is performed.

(2) If the well cannot be cleaned out or the casing removed, the mine operator shall prepare the well as described below from the surface to at least 400 feet below the base of the Pittsburgh #8 coal seam, unless the District Manager requires cleaning out and removal of casing to a greater depth based on his judgement as to what is required due to geological strata or the pressure within the well.

(3) If the casing cannot be removed from the total depth, the well must be filled with cement from the lowest possible depth to 400 feet below the

Pittsburgh #8 coal seam, and the other applicable provisions in this petition still apply; or

(4) If the casing cannot be removed, the casing shall be perforated from 400 feet below the Pittsburgh #8 coal seam, the annuli shall be cemented or otherwise filled, and the other applicable provisions in this petition still apply.

(5) If the casing cannot be removed, the casing must be cut, milled, perforated, or ripped at sufficient intervals to facilitate the removal of any remaining casing in the coal seam by the mining equipment. Any casing which remains shall be cut, perforated, or ripped to permit the injection of cement into voids within and around the well. All casing remaining at the Pittsburgh #8 coal seam shall be cut, perforated, or ripped at least every 5 feet from 10 feet below the coal seam to 10 feet above the coal seam.

(6) If the mine operator, using a casing bond log, can demonstrate to the District Manager's satisfaction that all annuli in the well are already adequately sealed with cement, the mine operator will not be required to perforate or rip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon(s), any casing which remains shall be ripped or perforated and filled with expanding cement as indicated above. An acceptable casing bond log for each casing and tubing string is needed if used in lieu of ripping or perforating multiple strings.

(e) The petitioner proposed to use the following mandatory procedures when mining within a 100-foot diameter barrier around the Esther Clark 1H and 3H Gas Wells.

(1) A representative of the mine operator, a representative of the miners, the appropriate State agency, or the MSHA District Manager may request that a conference be conducted prior to intersecting any plugged well. Upon receipt of any such request, the District Manager shall schedule such a conference. The party requesting the conference shall notify all other parties listed above within a reasonable time prior to the conference to provide opportunity for participation. The purpose of the conference shall be to review, evaluate, and accommodate any abnormal or unusual circumstance related to the condition of the well or surrounding strata when such conditions are encountered.

(2) The mine operator shall intersect a well on a shift approved by the District Manager. The mine operator shall notify the District Manager and the miners' representative in sufficient time prior to intersecting a well to provide an opportunity to have representatives present.

(3) When using continuous mining methods, the mine operator shall install drivage sites at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sites shall not be more than 50 feet from the well. When using longwall-mining methods, distance markers shall be installed on 5-foot centers for a distance of 50 feet in advance of the well in the headgate entry and in the tailgate entry.

(4) When either the conventional or continuous mining method is used, the mine operator shall ensure that fire-fighting equipment including fire extinguishers, rock dust, and sufficient fire hose to reach the workingface area of the well intersection is available and operable during all well intersections. The fire hose shall be located in the last open crosscut of the entry or room. The mine operator shall maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section. When the longwall mining method is used, a hose to the longwall water supply is sufficient.

(5) The mine operator shall ensure that sufficient supplies of roof support and ventilation materials shall be available and located at the last open crosscut. In addition, emergency plugs and suitable sealing materials shall be available in the immediate area of the well intersection.

(6) On the shift prior to intersecting the well, the mine operator shall service all equipment and check it for permissibility. Water sprays, water pressures, and water flow rates used for dust and spark suppression shall he examined and any deficiencies corrected.

(7) The mine operator shall calibrate the methane monitor(s) on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to intersecting the well.

(8) When mining is in progress, the mine operator shall test for methane with a handheld methane detector at least every 10 minutes from when mining with the continuous mining machine or longwall face is within 30 feet of the well until the well is intersected. During the actual cutting process, no individual shall be allowed on the return side until the well intersection has been completed and the area has been examined and declared safe. All workplace examinations on the return side of the shearer will be conducted while the shearer is idle. The mine operator's most current Approved Ventilation Plan will be followed at all times unless the District Manager deems a greater air velocity for the intersect is necessary.

(9) When using continuous or conventional mining methods, the working place shall be free from accumulations of coal dust and coal spillages, and rock dust shall be placed on the roof, rib, and floor to within 20 feet of the face when intersecting the well. On longwall sections, rockdusting shall be conducted and placed on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) When the well is intersected, the mine operator shall de-energize all equipment and thoroughly examine and determine the area to be safe before permitting mining to resume.

(11) After a well has been intersected and the working place determined to be safe, mining shall continue inby the well a sufficient distance to permit adequate ventilation around the area of the well.

(12) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. However, in rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame shall be permitted in the area until adequate ventilation has been established around the well bore and methane levels of less than 1.0% are present in all areas that will be exposed to flames and sparks from the torch. The mine operator shall apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to the use of torches.

(13) Non-sparking (brass) tools will be available and will be used exclusively to expose and examine cased wells.

(14) No person shall be permitted in the area of the well intersection except those actually engaged in the operation, including company personnel, representatives of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(15) The mine operator shall alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning shall be repeated for all shifts until the well has been mined through.

(16) The well intersection shall be under the direct supervision of a certified individual. Instructions concerning the well intersection shall be issued only by the certified individual in charge.

(17) If the mine operator cannot find the well in the longwall panel or if a development section misses the anticipated intersection, the mine operator shall cease mining to examine

for hazardous conditions at the projected location of the well, notify the District Manager, and take reasonable measures to locate the well, including visual observation/inspection or through survey data. Mining may resume if the well is located and no hazardous conditions exist. If the well cannot be located, the mine operator shall work with District Manager to resolve any issues before mining resumes.

(18) The provisions of this petition do not impair the authority of representatives of MSHA to interrupt or halt the well intersection and to issue a withdrawal order when they deem it necessary for the safety of the miners. MSHA may order an interruption or cessation of the well intersection and/or a withdrawal of personnel by issuing either a verbal or written order to that effect to a representative of the mine operator. Operations in the affected area of the mine may not resume until a representative of MSHA permits resumption. The mine operator and miners shall comply with verbal or written MSHA orders immediately. All verbal orders shall be committed to writing within a reasonable time as conditions permit.

(19) A copy of the decision and order shall be maintained at the mine and available to the miners.

(20) If the well is not plugged to the total depth of all minable coal seams identified in the core hole logs, any coal seams beneath the lowest plug will remain subject to the barrier requirements of 30 CFR 75.1700, should those coal seams be developed in the future.

(21) All necessary safety precautions and safe practices according to Industry Standards and required by MSHA regulations and State regulatory agencies having jurisdiction over the plugging site will be followed to provide the upmost protection to the miners involved in the process.

(22) All miners involved in the plugging or re-plugging operations will be trained on the contents of the decision and order prior to starting the process, and a copy of the decision and order will be posted at the well site until the plugging or re-plugging has been completed.

(23) Mechanical bridge plugs should incorporate the best available technologies that are either required or recognized by the State regulatory agency and/or oil and gas industry.

(24) Within 30 days after the decision and order becomes final, the mine operator shall submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These proposed revisions shall include initial and refresher training on compliance with the terms and conditions stated in the decision and order. The mine operator shall provide all miners involved in well intersection with training on the requirements of the decision and order prior to mining within 150 feet of the well intended to be mined through.

(25) The responsible person required under 30 CFR 75.1501 (Emergency evacuations) is responsible for well intersection emergencies. The well intersection procedures should be reviewed by the responsible person prior to any planned intersection.

(26) Within 30 days after the decision and order becomes final, the mine operator shall submit proposed revisions for its approved mine emergency evacuation and firefighting program of instruction required under 30 CFR 75.1502. The mine operator will revise the program of instruction to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of submittal.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica Senk,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2021–17554 Filed 8–16–21; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of three petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before September 16, 2021.

ADDRESSES: You may submit your comments including the docket number of the petition by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Jessica D. Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Senk.Jessica@dol.gov* (email), or 202–693–9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2021–027–C.

Petitioner: Emery County Coal Resources, Inc., P.O. Box 910, East Carbon, Utah (ZIP 84520).

Mine: Lila Canyon Mine, MSHA ID No. 42–02241, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than

power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.507–1(a), as it relates to the use of an alternative method of respirable dust protection for miners at the Lila Canyon Mine in Utah. Specifically, the petitioner is applying to use the battery-powered CleanSpace EX and 3M Versaflo TR–800 powered air purifying respirators (PAPRs) in return air outby the last open crosscut.

The petitioner states that:

(a) The 3M Airstream Mining Headgear-Mounted model PAPR provides a constant flow of filtered air which results in a reduction of the miners' exposure to respirable dust, thus reducing their health risks.

(b) With discontinuance of the MSHA-approved 3M Airstream Mining Headgear-Mounted model PAPR, there are no other MSHA-approved PAPRs available.

(c) The use of the CleanSpace EX and 3M Versaflo TR–800 PAPRs will provide miners in MMU 004–0 with a constant flow of filtered air which results in a reduction of the miners' exposure to respirable dust, thus reducing their health risks.

(d) The use of the CleanSpace EX and 3M Versaflo TR–800 PAPRs will protect miners from respirable dust when working in return air outby the last open crosscut performing maintenance such as, but not limited to, un-plugging dust lines, timbering, or maintaining pumps.

(e) The CleanSpace EX—full or half mask PAPR is intrinsically safe and is certified by UL under the ANSI/UL 60079–11 standard to be used in hazardous locations because it meets the intrinsic safety protection level. The unit is acceptable in other jurisdictions for use in mines with the potential for methane accumulation. The CleanSpace EX PAPR is an air filtering, fan assisted positive pressure mask which is used in different applications, including high dust environments. The CleanSpace EX PAPR is lightweight and compact and requires no hoses, cables, or belt-mounted battery packs. It requires few replacement parts and no servicing or maintenance. It is compatible with personal protective equipment.

(f) The 3M Versaflo TR–800 PAPR is intrinsically safe and is certified by UL under the ANSI/UL 60079–11 standard to be used in hazardous locations. This unit is acceptable in other jurisdictions for use in mines with the potential for methane accumulation. The 3M Versaflo TR–800 is ergonomically designed for greater movement in tight work spaces. It helps protect against certain airborne contaminates and has a multi-speed blower. The PAPR is easy to use and maintain and has audible and visual alarms. The 3M Versaflo TR–800 battery offers a long run time and charges quickly. The unit has interchangeable components which will enable the petitioner to customize the PAPR system to help meet the needs of their specific applications.

The petitioner proposes the following alternative method:

(a) The petitioner will use the CleanSpace EX and 3M Versaflo TR–800 PAPRs in return air outby the last open crosscut to protect miners from exposure to respirable dust.

(b) The batteries for the PAPRs will be charged outby the last open crosscut when not in operation.

(c) The 3M Versaflo TR–800 batteries will be charged by the 3M battery Charger TR–641N or the 3M 4-Station battery charger TR–644N.

(d) The 3M Versaflo TR–800 PAPR will only use the 3M TR–830 battery pack.

(e) Affected miners will be trained in the proper use and care of the PAPR units in accordance with manufacturers' instructions.

(f) The PAPRs will be checked for physical damage and the integrity of the case.

(g) If methane is detected in concentrations of 1.0 percent or more, procedures in accordance with 30 CFR 75.323 will be followed.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M–2021–028–C.

Petitioner: Emery County Coal Resources, Inc., P.O. Box 910, East Carbon, Utah (ZIP 84520).

Mine: Lila Canyon Mine, MSHA ID No. 42–02241, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.1002(a), as it relates to the use of an alternative method of respirable dust protection for miners at the Lila Canyon mine in Utah. Specifically, the petitioner is applying to utilize the battery-powered CleanSpace EX and 3M Versaflo TR–800 PAPRs within 150 feet of pillar workings or the longwall face.

The petitioner states that:

(a) The 3M Airstream Mining Headgear-Mounted model PAPR provides a constant flow of filtered air which results in a reduction of the miners' exposure to respirable dust, thus reducing their health risks.

(b) With discontinuance of the MSHA-approved 3M Airstream Mining Headgear-Mounted model PAPR, there are no other MSHA-approved PAPRs available.

(c) The use of the CleanSpace EX and 3M Versaflo TR–800 PAPRs will provide miners in MMU 004–0 with constant flow of filtered air which results in a reduction of miners' exposure to respirable dust, thus reducing their health risks.

(d) The use of the CleanSpace EX and 3M Versaflo TR–800 PAPRs will protect miners from respirable dust when working within 150 feet of pillar workings, the longwall face, and the section faces.

(e) The CleanSpace EX—full or half mask PAPR is intrinsically safe and is certified by UL under the ANSI/UL 60079–11 standard to be used in hazardous locations because it meets the intrinsic safety protection level. The unit is acceptable in other jurisdictions for use in mines with the potential for methane accumulation. The CleanSpace EX PAPR is an air filtering, fan assisted positive pressure mask which is used in different applications, including high dust environments. The CleanSpace EX PAPR is lightweight and compact and requires no hoses, cables, or belt-mounted battery packs. It requires few replacement parts and no servicing or maintenance. It is compatible with personal protective equipment.

(f) The 3M Versaflo TR–800 PAPR is intrinsically safe and is certified by UL under the ANSI/UL 60079–11 standard to be used in hazardous locations. This unit is acceptable in other jurisdictions for use in mines with the potential for methane accumulation. The 3M Versaflo TR–800 is ergonomically designed for greater movement in tight work spaces. It helps protect against certain airborne contaminates and has a multi-speed blower. The PAPR is easy to use and maintain and has audible and visual alarms. The 3M Versaflo TR–800 battery offers a long run time and charges quickly. The unit has interchangeable components which will enable the petitioner to customize the PAPR system to help meet the needs of their specific applications.

The petitioner proposes the following alternative method:

(a) The petitioner will use the CleanSpace EX and 3M Versaflo TR–800 PAPRs to protect miners from exposure to respirable dust.

(b) The batteries for the PAPRs will be charged outby the last open crosscut when not in operation.

(c) The 3M Versaflo TR–800 batteries will be charged by the 3M battery Charger TR–641N or the 3M 4-Station battery charger TR–644N.

(d) The 3M Versaflo TR–800 PAPR will only use the 3M TR–830 battery pack.

(e) Affected miners will be trained in the proper use and care of the PAPR units in accordance with manufacturers' instructions.

(f) The PAPRs will be checked for physical damage and the integrity of the case.

(g) If methane is detected in concentrations of 1.0 percent or more, procedures in accordance with 30 CFR 75.323 will be followed.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M–2021–029–C.

Petitioner: Emery County Coal Resources, Inc., P.O. Box 910, East Carbon, Utah (ZIP 84520).

Mine: Lila Canyon Mine, MSHA ID No. 42–02241, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.500(d), as it relates to the use of an alternative method of respirable dust protection at the Lila Canyon Mine in Utah. Specifically, the petitioner is applying to utilize the battery-powered CleanSpace EX and 3M Versaflo TR–800 PAPRs inby the last open crosscut.

The petitioner states that:

(a) The 3M Airstream Mining Headgear-Mounted model PAPR provides a constant flow of filtered air which results in a reduction of the miners' exposure to respirable dust, thus reducing their health risks.

(b) With discontinuance of the MSHA-approved 3M Airstream Mining Headgear-Mounted model PAPR, there are no other MSHA-approved PAPRs available.

(c) The use of the CleanSpace EX and 3M Versaflo TR–800 PAPRs will provide miners in MMU 004–0 with constant flow of filtered air which results in a reduction of miners' exposure to respirable dust, thus reducing their health risks.

(d) The use of the CleanSpace EX and 3M Versaflo TR–800 PAPRs will protect miners from respirable dust when working inby the last open crosscut.

(e) The CleanSpace EX—full or half mask PAPR is intrinsically safe and is certified by UL under the ANSI/UL 60079–11 standard to be used in hazardous locations because it meets the intrinsic safety protection level. The unit is acceptable in other jurisdictions for use in mines with the potential for methane accumulation. The CleanSpace EX PAPR is an air filtering, fan assisted positive pressure mask which is used in different applications, including high dust environments. The CleanSpace EX PAPR is lightweight and compact and requires no hoses, cables, or belt-mounted battery packs. It requires few replacement parts and no servicing or maintenance. It is compatible with personal protective equipment.

(f) The 3M Versaflo TR–800 PAPR is intrinsically safe and is certified by UL under the ANSI/UL 60079–11 standard to be used in hazardous locations. This unit is acceptable in other jurisdictions for use in mines with the potential for methane accumulation. The 3M Versaflo TR–800 is ergonomically designed for greater movement in tight work spaces. It helps protect against certain airborne contaminates and has a multi-speed blower. The PAPR is easy to use and maintain and has audible and visual alarms. The 3M Versaflo TR–800 battery offers a long run time and charges quickly. The unit has interchangeable components which will enable the petitioner to customize the PAPR system to help meet the needs of their specific applications.

The petitioner proposes the following alternative method:

(a) The petitioner will use the CleanSpace EX and 3M Versaflo TR–800 PAPRs to protect miners from exposure to respirable dust.

(b) The batteries for the PAPRs will be charged outby the last open crosscut when not in operation.

(c) The 3M Versaflo TR–800 batteries will be charged by the 3M battery Charger TR–641N or the 3M 4-Station battery charger TR–644N.

(d) The 3M Versaflo TR–800 PAPR will only use the 3M TR–830 battery pack.

(e) Affected miners will be trained in the proper use and care of the PAPR units in accordance with manufacturers' instructions.

(f) The PAPRs will be checked for physical damage and the integrity of the case.

(g) If methane is detected in concentrations of 1.0 percent or more, procedures in accordance with 30 CFR 75.323 will be followed.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica Senk,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2021–17553 Filed 8–16–21; 8:45 am]

BILLING CODE 4520–43–P

LEGAL SERVICES CORPORATION

Notice to LSC Grantees of Application Process for Subgranting Special Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Notice of application dates and format for applications to make subgrants of LSC Special Grant Funds, including Technology Initiative Grant, Pro Bono Innovation Fund, and Disaster Relief Grant funds.

SUMMARY: The Legal Services Corporation (LSC) is the national organization charged with administering Federal funds provided for civil legal services to low-income people. LSC hereby announces the submission dates for applications to make subgrants of its Special Grant funds. LSC is also providing information about where applicants may locate subgrant application questions and directions for providing the information required to apply for a subgrant.

DATES: See **SUPPLEMENTARY INFORMATION** section for application dates.

ADDRESSES: Legal Services Corporation—Office of Compliance and Enforcement, 3333 K Street NW, Third Floor, Washington, DC 20007–3522.

FOR FURTHER INFORMATION CONTACT: Megan Lacchini, Office of Compliance and Enforcement at *lacchinim@lsc.gov* or (202) 295–1506, or visit the LSC website at *http://www.lsc.gov/grants-grantee-resources/grantee-guidance/how-apply-subgrant.*

SUPPLEMENTARY INFORMATION: Under 45 CFR part 1627, LSC must publish, on an annual basis, ''notice of the requirements concerning the format and contents of the application annually in the **Federal Register** and on LSC's website.'' 45 CFR 1627.4(b). This Notice and the publication of the Subgrant Application on LSC's website satisfy § 1627.4(b)'s notice requirement for LSC Special Grant programs. Only current or prospective recipients of LSC Special Grants may apply for approval to subgrant these funds.

An applicant must submit an application to make a subgrant of LSC Special Grant funds at least 45 days in advance of the subgrant's proposed effective date. 45 CFR 1627.4(b)(2).

All applicants must provide answers to the application questions in GrantEase and upload the following documents:

- A draft subgrant agreement (with the required terms provided in LSC's Subgrant Agreement Template); and
- A subgrant budget (using LSC's Subgrant Budget Template).

Applicants seeking to subgrant to a new subrecipient that is not a current LSC grantee or applying to renew a subgrant with an organization that is not a current LSC grantee in a year in which the applicant was not already required to submit the documents listed below as a part of an application to subgant LSC Basic Field funds, must also upload:

- The subrecipient's accounting manual;
- The subrecipient's most recent audited financial statements;
- The subrecipient's current cost allocation policy (if not in the accounting manual);
- The subrecipient's 45 CFR 1635.3(c) recordkeeping policy (if not in the accounting manual).

A list of subgrant application questions, the Subgrant Agreement Template, and the Subgrant Budget Template are available on LSC's website at *http://www.lsc.gov/grants-grantee-resources/grantee-guidance/how-apply-subgrant.*

LSC encourages applicants to use LSC's Subgrant Agreement Template as a model subgrant agreement. If the applicant does not use LSC's Template, the proposed agreement must include, at a minimum, the substance of the provisions of the Template.

Once submitted, LSC will evaluate the application and provide applicants with instructions on any needed modifications to the submitted documents or Draft Agreement provided with the application. The applicant must then upload a final and signed subgrant agreement through GrantEase by the date requested.

As required by 45 CFR 1627.4(b)(3), LSC will inform applicants of its decision to disapprove, approve, or request modifications to the subgrant no later than the subgrant's proposed effective date.

Dated: August 12, 2021.

Stefanie Davis,

Senior Assistant General Counsel.

[FR Doc. 2021–17617 Filed 8–16–21; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0133]

Use of ARCON Methodology for Calculation of Accident-Related Offsite Atmospheric Dispersion Factors

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–4030, ''Use of ARCON Methodology for Calculation of Accident-Related Offsite Atmospheric Dispersion Factors.'' This proposed new regulatory guide (RG) describes an approach for reactor applicants and licensees for determining atmospheric relative concentration (χ/Q) values in support of modeling onsite releases to offsite boundaries from a design-basis accident. Also, this proposed guidance implements the methodology in RG 1.194, ''Atmospheric Relative Concentrations for Control Room Radiological Habitability Assessments at Nuclear Power Plants,'' for offsite dose locations at boundaries.

DATES: Submit comments by September 16, 2021. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0133. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jason White, Office of Nuclear Reactor Regulation, telephone: 301–415–3212, email: *Jason.White@nrc.gov,* Kevin Quinlan, Office of Nuclear Reactor Regulation, telephone: 301–415–6809, email: *Kevin.Quinlan@nrc.gov,* or Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301–415–2493, email: *Harriet.Karagiannis@nrc.gov.* All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0133 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0133.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *Attention:* The PDR, where you may examine, and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0133 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the

comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

This DG, identified by its task number, DG–4030, titled, ''Use of ARCON Methodology for Calculation of Accident-Related Offsite Atmospheric Dispersion Factors,'' is a proposed new RG 4.28 (ADAMS Accession No. ML21165A005). This proposed new RG 4.28 provides guidance to industry for complying with and implementing the NRC requirements by endorsing the use of the ARCON computer code to calculate offsite dispersion values out to distances of 1,200 m (3,937 ft) that could include the exclusion area boundary and/or low-population zone.

RG 1.194 (ADAMS Accession No. ML031530505) endorses the use of the ARCON96 computer code for calculating accident-related onsite (control room and technical support center) atmospheric dispersion values which are direct inputs to habitability dose assessments. In addition, RG 1.145, ''Atmospheric Dispersion Models for Potential Accident Consequence Assessments at Nuclear Power Plants'' (ADAMS Accession No. ML12216A014), provides the present methodology incorporated into the PAVAN computer code, as reviewed by the staff using NUREG–0800 at *https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/index.html* (ADAMS Accession No. ML070810350), SRP Section 2.3.4 for calculating accident-related related, offsite atmospheric dispersion values.

RG 4.28 will provide new guidance for applicants and licensees subject to Part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities''; 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants''; and 10 CFR part 100, ''Reactor site criteria.''

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML21165A007). The staff develops a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG–4030, if finalized, would not constitute backfitting as that term is defined in 10 CFR 50.109, ''Backfitting'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests''; constitute forward fitting as that term is defined and described in MD 8.4; or affect issue finality of any approval issued under 10 CFR part 52. As explained in DG–4030, applicants and licensees are not required to comply with the positions set forth in DG–4030.

Dated: August 10, 2021.

For the Nuclear Regulatory Commission.

Ronaldo V. Jenkins,

Acting Chief, Regulatory Guidance and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2021–17596 Filed 8–16–21; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2021–127; Order No. 5955]

Competitive Price Adjustment

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recently filed Postal Service document with the Commission concerning time-limited changes in rates of general applicability for competitive products. The changes are scheduled to take effect October 3, 2021, and would roll back to current levels on December 26, 2021. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 25, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction and Overview
II. Initial Administrative Actions
III. Ordering Paragraphs

I. Introduction and Overview

On August 10, 2021, the Postal Service filed notice with the Commission concerning time-limited changes in rates of general applicability for Competitive products.[1] The Postal Service represents that, as required by 39 CFR 3035.102(b), the Notice includes an explanation and justification for the changes, the effective date, a schedule of the changed rates, and a schedule showing current prices that shall be restored. *See* Notice at 1. The changes are scheduled to take effect on October 3, 2021, and will roll back to current levels on December 26, 2021. *Id.*

Attached to the Notice is Governors' Decision No. 21–5, which states the new prices are in accordance with 39 U.S.C. 3632 and 3633 and 39 CFR 3035.102.[2] The Governors' Decision provides an analysis of the Competitive products' price changes intended to demonstrate that the changes comply with 39 U.S.C. 3633 and 39 CFR part 3035. Governors' Decision No. 21–5 at 1. The attachment to the Governors' Decision sets forth the price changes and includes draft Mail Classification Schedule (MCS) language for Competitive products of general applicability, as well as the MCS sections with the prices that will be restored on December 26, 2021. No price changes are being made to Special Services or International Competitive products. *Id.* at 3.

The Notice also includes an application for non-public treatment of the attributable costs, contribution, and cost coverage data in the unredacted version of the annex to the Governors'

[1] USPS Notice of Time-Limited Changes in Rates of General Applicability for Competitive Products, August 10, 2021 (Notice). Pursuant to 39 U.S.C. 3632(b)(2), the Postal Service is obligated to publish the Governors' Decision and record of proceedings in the **Federal Register** at least 30 days before the effective date of the new rates.

[2] Notice, Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 21–5), at 1 (Governors' Decision No. 21–5).

Decision, as well as the supporting materials for the data. Notice at 2.

Planned price adjustments. The Governors' Decision includes an overview of the Postal Service's planned price changes, which is summarized in the table below.

TABLE I–1—PROPOSED PRICE CHANGES

Product name	Average price increase (percent)
Domestic Competitive Products	
Priority Mail Express	2.3
Retail	2.3
Commercial Base	2.2
Commercial Plus	2.2
Priority Mail	5.7
Retail	5.3
Commercial Base	6.3
Commercial Plus	6.3
Parcel Select	11.0
Destination Delivery Unit	0.0
Destination Sectional Center Facility	15.9
Destination Network Distribution Center	12.5
Lightweight	5.3
Ground	6.2
Parcel Return Service	13.0
Return Sectional Center Facility	7.4
Return Delivery Unit	18.7
First-Class Package Service	7.6
Retail	6.4
Commercial	8.0
Retail Ground	5.3

Source: See Governors' Decision No. 21–5 at 2–3.

II. Initial Administrative Actions

The Commission establishes Docket No. CP2021–127 to consider the Postal Service's Notice. Interested persons may express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E. Comments are due no later than August 25, 2021. For specific details of the planned price changes, interested persons are encouraged to review the Notice, which is available on the Commission's website at *www.prc.gov.*

Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as Public Representative to represent the interests of the general public in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2021–127 to provide interested persons an opportunity to express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E.

2. Comments are due no later than August 25, 2021.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Jennie L. Jbara,

Alternate Certifying Officer.

[FR Doc. 2021–17549 Filed 8–16–21; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2021–128; Order No. 5956]

Inbound EMS 2

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent Postal Service filing of its intention to change prices not of general applicability to be effective January 1, 2022. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 18, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

On August 10, 2021, the Postal Service filed notice pursuant to 39 CFR 3035.105, announcing its intention to change prices not of general applicability for Inbound EMS 2 effective January 1, 2022.[1]

II. Contents of Filing

To support its proposed Inbound EMS 2 prices, the Postal Service filed a redacted version of the proposed new rates, a copy of the certification required under 39 CFR 3035.105(c)(2), a redacted copy of Governors' Decision No. 19–1, a redacted copy of the most recent annual EMS Pay-for-Performance (PfP) Plan (for 2022), a redacted copy of the most recent available EMS Cooperative Report Cards for Calendar Year (CY) 2020, and a redacted list of countries expected to participate in PfP in CY 2022.[2] The Postal Service states that the financial workpapers that accompany the Notice include penalties incurred, if any, from the most recent (pre-pandemic) year and that all PfP penalties are applied in the financial workpapers and all lost revenue is deducted accordingly, as directed by Order No. 5660.[3]

Additionally, the Postal Service filed unredacted copies of Governors' Decision No. 19–1, its proposed prices, service performance data and plan, and related financial information under seal. Notice at 2. The Postal Service also filed an application for non-public treatment of materials under seal. *Id.* Attachment 1.

III. Commission Action

The Commission establishes Docket No. CP2021–128 for consideration of matters raised by the Notice and pursuant to 39 U.S.C. 505 appoints Gregory Stanton to serve as Public Representative in this docket.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035. Comments are due no later than August 18, 2021. The public portions of the filing can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's filing can be accessed through compliance with the requirements of 39 CFR part 3011.

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[1] Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, and Application for Non-Public Treatment, August 10, 2021, at 1 (Notice).

[2] Notice at 2–3; *see id.* Attachments 2–6; Attachment 7 Excel file.

[3] Notice at 3; *see* Docket No. CP2020–250, Order Approving Changes in Prices Not of General Applicability for Inbound EMS 2, August 28, 2020 (Order No. 5660). The Postal Service notes that because penalties were waived in CY 2020 and for CY 2021 in light of the pandemic, the 2019 penalties are used in the workpapers and model in this proceeding. Notice at 3.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2021–128 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Gregory Stanton is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 18, 2021.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Jennie L. Jbara,

Alternate Certifying Officer.

[FR Doc. 2021–17536 Filed 8–16–21; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service™.

ACTION: Notice of a modified system of records.

SUMMARY: The United States Postal Service® (Postal Service) is proposing to modify a General Privacy Act System of Records (SOR) to support an initiative that promotes innovation by issuing challenges and soliciting responses from participants through a crowd sourced solution.

DATES: These revisions will become effective without further notice on September 16, 2021, unless, in response to comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be submitted via email to the Privacy and Records Management Office, United States Postal Service Headquarters (*privacy@usps.gov*). To facilitate public inspection, arrangements to view copies of any written comments received will be made upon request.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–3069 or *privacy@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records. The Postal Service is proposing revisions to an existing system of records (SOR) to support innovation in its operations by way of crowd sourced solutions.

I. Background

The Postal Service is seeking to reduce the cost and enhance the value of proposed solutions to problems faced by the organization that promote efficient and effective operation. As part of this initiative, USPS is soliciting collaborative methods to develop models, infrastructure, and innovation platforms to enhance USPS's capabilities. The objectives of this initiative will advance the mission of USPS by:

- Supporting USPS Technology Development and Applications
- Providing the ability to award prizes competitively to stimulate innovation

II. Rationale for Changes to USPS Privacy Act Systems of Records

The Postal Service is proposing to modify USPS SOR 400.000, Supplier and Tenant Records in support of an innovative approach for gathering feedback and ideas regarding challenges faced and topics of interest. USPS routinely encounters challenging science, technology, and engineering problems in the ordinary course of providing postal services. USPS is working with another federal agency with expertise in solving problems by way of crowd sourced solutions.

USPS seeks to utilize that expertise to aid it in formulating and conducting challenges for crowd sourced solutions with the purpose of identifying problem sets that have objectives suitable for generating innovative solutions using a distributed innovation model. USPS will further this objective by sponsoring competitions and challenges to generate innovative solutions.

Two new purposes have been added to USPS SOR 400.000, Supplier and Tenant Records, along with a new Category of Records and a record retention and disposal policy that pertain to records maintained by the crowd sourced initiative. The Postal Service will also change the name of the SOR from ''USPS SOR 400.000, Supplier and Tenant Records'' to ''USPS SOR 400.000, Supplier Records, Tenant Records, and Records related to other Agreements'' to reflect the scope of information that will be maintained by this system of records.

III. Description of the Modified System of Records

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed revisions to this SOR has been sent to Congress and to the Office of Management and Budget for their evaluations. The Postal Service does not expect this modified system of records to have any adverse effect on individual privacy rights. Accordingly, for the reasons stated above, the Postal Service proposes revisions to this system of records as follows:

SYSTEM NAME AND NUMBER:

USPS 400.000 Supplier Records, Tenant Records, and Records related to other Agreements.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

USPS Headquarters; supply management offices; facilities service offices; area and district facilities, and contractor sites.

SYSTEM MANAGER(S) AND ADDRESS:

For contracting records: Vice President, Supply Management, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

For contractor fingerprint screening records: Chief Postal Inspector, Inspection Service, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

For real property owner and tenant records: Vice President, Facilities, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401 and 411.

PURPOSE(S):

1. To administer contracts.

2. To determine supplier suitability for assignments requiring access to mail.

3. To adjudicate claims by owners and tenants of real property acquired by USPS.

4. To facilitate registration for participation in innovative challenges sponsored by USPS.

5. To provide an interactive forum that promotes innovation by challenging participants to gather ideas and relevant feedback about selected problems and topics using crowd sourced solutions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Suppliers; prospective suppliers; owners and tenants of real property purchased or leased by USPS; participants in challenges sponsored by USPS.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Supplier information:* Records related to suppliers, such as supplier

name; Social Security Number or tax identification number; business contact information; contract number; and other contract information; fingerprint cards and experience and qualifications to provide services including principals' names and company descriptions.

2. *Real property owner and tenant information:* Records related to compensation claims by occupants of property acquired by USPS, including name and address of claimant, address of vacated dwelling, and itemized expenses.

3. *Crowdsourcing Agreement Participant Records:* First name, last name, email address, team name, organization name, team official representative or point of contact designation status, and password established during the registration process, idea text and relevant feedback responses to challenges regarding selected problems and topics, drawings, attachments, or documents associated with submissions.

RECORD SOURCE CATEGORIES:

Contract employees or businesses; previous dwelling owner or tenant claimant; and USPS claims reviewers and adjudicators; feedback and ideas provided by participating teams or individuals in USPS sponsored challenges.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1. through 9. apply.

STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Individual, business, lessor, or claimant name; contract name or number, Social Security Number, tax identification number, business contact information, or address of leased facility; individuals participating in challenges and teams or organizations participating in challenges.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Unsuccessful proposals and architect/engineering questionnaires are retained 1 year beyond contract award. Contract records are closed at the end of the fiscal year in which they become inactive and are retained 6 years thereafter.

2. Contractor fingerprint records are retained 2 years beyond contractor termination date.

3. Leased property records are closed at the end of the calendar year in which the lease or rental agreement expires or terminates and are retained 6 years and 3 months from that date.

4. Real property owner and tenant records are retained 6 years unless required longer for litigation purposes.

5. Participant registration information for challenges and participant responses to challenges are retained for 1 year after conclusion of challenge.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge. Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedures and Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals wanting to know if information about them is maintained in this system of records must address inquiries to the appropriate system manager. Inquiries about highway vehicle contracts must be made to the applicable USPS area office. Real property owner and tenant claimants must address inquiries to the same facility to which they submitted the claim. Inquiries must contain full individual or business name, Social Security Number, tax identification number, contract number, date of contract, or other pertinent identifying information.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

June 27, 2012, 77 FR 38342; April 29, 2005, 70 FR 22516.

* * * * *

Ruth B. Stevenson,

Chief Counsel, Ethics and Legal Compliance.

[FR Doc. 2021–17648 Filed 8–16–21; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92635; File No. SR–CboeBZX–2021–055]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

August 11, 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 August 2, 2021, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*) [sic], at the Exchange's Office of the Secretary, 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 its Fee Schedule for its equity options platform (''BZX Options'') in connection with its Customer Penny Add Volume Tiers, Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers, and Customer Non-Penny Add Volume Tiers, effective August 2, 2021.

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 16% of the market share and currently the Exchange represents only approximately 8% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the 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. The Exchange's Fee Schedule sets forth standard rebates and rates applied per contract, which varies depending on the Member's capacity (Customer, Firm, Market Maker, etc.), whether the order adds or removes liquidity, and whether the order is in Penny or Non-Penny Program Securities.

Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members with opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria. Among other volume tiers, the Exchange currently offers Customer Penny Add Volume Tiers, Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers, and Customer Non-Penny Add Volume Tiers, to which it proposes to make the following changes.

Customer Penny Add Volume Tiers

The Exchange currently offers seven Customer Penny Add Volume Tiers under footnote 1 of the Fee Schedule that provide enhanced rebates between $0.35 and $0.53 per contract for qualifying Customer orders (*i.e.,* that yield fee code PY or XY)[4] where a Member meets certain liquidity thresholds. The Exchange proposes to update Tier 6, which currently offers an enhanced rebate of $0.53 per contract for qualifying orders (*i.e.,* that yield fee code PY or XY) where a Member has an ADAV[5] in Customer orders greater than or equal to 1.70% of average OCV.[6] Specifically, the proposed rule change updates the percentage of Customer orders over average OCV from 1.70% to 2.00% and adds an additional prong of criteria that a Member must achieve in order to receive the current enhanced rebate. The proposed second prong of criteria requires a Member, in addition to meeting the existing criteria (as updated), to reach an ADAV in Customer Non-Penny orders greater than or equal to 0.50% of average OCV. The proposed rule change does not alter the existing enhanced rebate amount offered in Tier 6.

The proposed rule change also eliminates Tier 5[7] and Tier 7. Tier 5 currently offers an enhanced rebate of $0.53 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 0.80% of average OCV, (2) an ADAV in Market Maker orders greater than or equal to 0.35% of average OCV, and (3) on BZX Equities an ADAV greater than or equal to 0.30% of average TCV. Tier 7 currently offers the same enhanced rebate ($0.53) per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 0.50% of average OCV, (2) an ADAV in Market Maker orders greater than or equal to 2.75% of average OCV, and (3) an ADAV in Firm Non-Penny orders greater than or equal to 0.05% of average OCV.

The Exchange proposes to eliminate Tiers 5 and 7 as no Members are currently satisfying the criteria under these tiers, nor have recently satisfied such criteria. The Exchange no longer wishes to, nor is it required to, maintain such tiers. More specifically, the proposed rule change removes these tiers as the Exchange would like to provide more consolidated, streamlined Customer Penny Add Volume Tiers by offering a single tier that provides an enhanced rebate of $0.53 (current Tier 6/new Tier 5) and would also rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow. The Exchange believes that the proposed updated criteria in current Tier 6 (new Tier 5) is designed to provide a different opportunity for Members to achieve the tier to receive the same enhanced rebate.

Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers

The Exchange currently offers three Market Maker, Away Market Maker, and Professional Take Volume Tiers under footnote 3 of the Fee Schedule that provide a reduced fee between $0.45 and $0.47 per contract for qualifying orders (*i.e.,* that yield fee code PP)[8] where a Member meets certain liquidity thresholds. The Exchange proposes to update each of the three Market Maker, Away Market Maker, and Professional

[3] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (July 23, 2021), available at *https://markets.cboe.com/us/options/market_statistics/.*

[4] Orders yielding fee code PY are Customer orders that add liquidity in Penny Program Securities and are offered a rebate of $0.25, and orders yielding fee code XY are Customer orders in XSP options that add liquidity and are offered a rebate of $0.25.

[5] ''ADAV'' means average daily added volume calculated as the number of contracts added. ADAV is calculated on a monthly basis.

[6] ''OCC Customer Volume'' or ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[7] As a result of eliminating Tier 5, the proposed rule change also amends current Tier 6 to be Tier 5.

[8] Orders yielding fee code PP are Market Maker, Away Market Maker, or Professional orders that remove liquidity in Penny Program Securities and are assessed a fee of $0.50.

Take Volume Tiers. The three tiers currently offer the following:

• Tier 1 currently offers a reduced fee of $0.45 per contract for qualifying orders (*i.e.,* that yield fee code PP) where a Member has (1) an ADAV in Customer orders greater than or equal to 0.80% of average OCV, (2) an ADAV in Market Maker orders greater than or equal to 0.35% of average OCV, (3) on BZX Equities an ADAV greater than or equal to 1.00% of average TCV, and (4) an ADAV in Customer Non-Penny orders greater than or equal to 0.10% of average OCV.

• Tier 2 currently offers a reduced fee of $0.47 per contract for qualifying orders where a Member has an ADAV in Customer orders greater than or equal to 1.30% of average OCV.

• Tier 3 currently offers a reduced fee of $0.45 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 2.00% of average OCV, and (2) an ADAV in Customer Non-Penny orders greater than or equal to 0.40% of average OCV.

The proposed rule change updates the three tiers to offer the following:

• As proposed, Tier 1 offers a new reduced fee of $0.49 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 1.00% of average OCV, and (2) Member has an ADRV [9] in Market Maker/Away Market Maker orders greater than or equal to 1.00% of average OCV. The proposed rule change eliminates the criteria in current prong 3 and 4.

• As proposed, Tier 2 offers a new reduced fee of $0.48 per contract for qualifying orders where a Member achieves the existing criteria plus proposed additional criteria in new prong two—a Member also has an ADRV in Market Maker/Away Market Maker orders greater than or equal to 1.00% of average OCV.

• As proposed, Tier 3 offers a new reduced fee of $0.47 per contract for qualifying orders where a Member achieves the existing criteria plus proposed additional criteria in new prong three—a Member also has an ADRV in Market Maker/Away Market Maker orders greater than or equal to 2.00% of average OCV.

The Exchange believes that the proposed updates to the Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers will provide different and additional opportunities for such Members to achieve the corresponding reduced fees, encouraging these liquidity providing market participants to increase their overall order flow, both add (ADAV) and remove (ADRV) volume, to the Exchange. This, in turn, may facilitate tighter spreads and more price improvement opportunities, signaling increased activity from other market participants, and thus may ultimately contribute to deeper and more liquid markets and a more robust and well-balanced market ecosystem on the Exchange, to the benefit of all market participants.

Customer Non-Penny Add Volume Tiers

The Exchange currently offers five Customer Non-Penny Add Volume Tiers [10] under footnote 12 of the Fee Schedule, which provide enhanced rebates between $0.92 and $1.06 per contract for qualifying Customer orders (*i.e.,* that yield fee code NY) [11] where a Member meets certain liquidity thresholds. The Exchange proposes to update Tier 1, Tier 4 and Tier 5. These tiers currently offer the following:

• Tier 1 currently offers an enhanced rebate of $0.92 per contract for qualifying orders (*i.e.,* that yield fee code NY) where a Member has (1) ADAV in Customer orders greater than or equal to 0.50% of average OCV, and (2) an ADAV in Market Maker orders greater than or equal to 2.75% of average OCV.

• Tier 4 currently offers an enhanced rebate of $1.05 per contract for qualifying orders where a Member has an ADAV in Customer orders greater than or equal to 2.10% of average OCV.

• Tier 5 currently offers an enhanced rebate of $1.06 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 2.00% of average OCV, and (2) an ADAV in Customer Non-Penny orders greater than or equal to 1.00% of average OCV.

The proposed rule change updates Tier 1, Tier 4 and Tier 5 as follows:

• As proposed, Tier 1 offers a new enhanced rebate of $0.90 per contract for qualifying orders where a Member has an ADAV in Customer Non-Penny orders greater than or equal to 0.25% of average OCV. The proposed rule change eliminates the second prong of criteria.

• As proposed, Tier 4 offers a new enhanced rebate of $1.01 per contract for qualifying orders where a Member has an ADAV in Customer orders greater than or equal to 0.85% of average OCV plus proposed additional criteria in new prong two—where a Member also has an ADAV in Customer Non-Penny orders greater than or equal to 0.25% of average OCV.

• As proposed, Tier 5 offers a new enhanced rebate of $1.02 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 0.90% of average OCV, and (2) an ADAV in Customer Non-Penny orders greater than or equal to 0.40% of average OCV.

The proposed rule change also adopts new Tier 2,[12] new Tier 6, new Tier 7 and new Tier 8, which, as proposed, offer the following:

• As proposed, Tier 2 offers an enhanced rebate of $0.95 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 0.50% of average OCV, and (2) an ADAV in Customer Non-Penny orders greater than or equal to 0.25% of average OCV.

• As proposed, Tier 6 offers an enhanced rebate of $1.03 per contract for qualifying orders where a Member has (1) has an ADAV in Customer orders greater than or equal to 1.00% of average OCV, and (2) an ADAV in Customer Non-Penny orders greater than or equal to 0.45% of average OCV.

• As proposed, Tier 7 offers an enhanced rebate of $1.04 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 1.30% of average OCV, and (2) an ADAV in Customer Non-Penny orders greater than or equal to 0.50% of average OCV.

• As proposed, Tier 8 offers an enhanced rebate of $1.05 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 1.30% of average OCV, and (2) an ADAV in Customer Non-Penny orders greater than or equal to 0.60% of average OCV.

Finally, the proposed rule change eliminates Tier 3, which currently offers an enhanced rebate of $1.02 per contract for qualifying orders where a Member has (1) an ADAV in Customer orders greater than or equal to 0.50% of average OCV, (2) an ADAV in Market Maker orders greater than or equal to 2.75% of average OCV, and (3) an ADAV in Firm Non-Penny orders greater than or equal to 0.05% of average OCV.

The proposed updates to and addition of tiers under the Customer Non-Penny Add Volume Tiers are designed to encourage increased Customer order

[9] ''ADRV'' means average daily removed volume calculated as the number of contracts removed. ADRV is calculated on a monthly basis.

[10] The proposed rule change also makes a nonsubstantive edit by making ''Customer Non-Penny Add Volume Tier'' plural.

[11] Orders yielding fee code NY are Customer orders that add liquidity in Non-Penny Program Securities and are offered a rebate of $0.85.

[12] As a result of new Tier 2, the proposed rule change also amends current Tier 2 to be Tier 3.

flow by providing different and additional opportunities to receive an enhanced rebate. The Exchange believes that an increase in Customer order flow may attract an additional corresponding increase in order flow from other market participants, also contributing overall towards a robust and well-balanced market ecosystem, to the benefit of all market participants. Also, like the proposed elimination of certain Customer Penny Add Volume Tiers above, the Exchange proposes to eliminate Customer Non-Penny Add Volume Tier 3 as no Members are currently satisfying the criteria under this tier, nor have recently satisfied such criteria. The Exchange no longer wishes to, nor is it required to, maintain this tier, and would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[13] in general, and furthers the objectives of Section 6(b)(4),[14] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members 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) [15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, 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 Members. The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges,[16] including the Exchange,[17] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon Members achieving certain volume and/or growth thresholds.

Overall, the Exchange believes that the proposed rule changes to the Customer Penny Add Volume, Market Maker, Away Market Maker, and Professional Take Volume, and Customer Non-Penny Add Volume Tiers are reasonable in that they are reasonably designed to incentivize Members to submit both add (ADAV) and remove (ADRV) order flow to the Exchange, thereby contributing to a deeper and more liquid market. More specifically, incentivizing an increase in both liquidity adding volume and in liquidity removing volume, through additional criteria and enhanced rebate opportunities, encourages liquidity adding Members on the Exchange to contribute to a deeper, more liquid market, and to increase transactions and take execution opportunities provided by such increased liquidity, together providing for overall enhanced price discovery and price improvement opportunities on the Exchange. Additionally, the Exchange believes that it is reasonable and equitable to incentivize Market Maker (including Away Market Maker), Professional and Customer order flow, as these market participants provide key liquidity to the Exchange. For instance, Market Maker (including Away Market Maker) activity facilitates tighter spreads and signals additional corresponding increase in order flow from other market participants. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities. Professionals generally provide a greater competitive stream of order flow (by definition, more than 390 orders in listed options per day on average during a calendar month), thus, providing increased competitive execution and improved pricing opportunities for all market participants. Customer order flow attracts additional liquidity to the Exchange, particularly in Non-Penny classes, as proposed. Such additional liquidity provides more trading opportunities and signals an increase in Market-Maker activity, which facilitates tighter spreads. This may cause an additional corresponding increase in order flow from other market participants, contributing overall towards a robust and well-balanced market ecosystem.

In particular, the Exchange believes that it is reasonable and equitable to eliminate Customer Penny Add Volume Tiers 5 and 7, as well as Customer Non-Penny Add Volume Tier 3, because the Exchange is not required to maintain this tier or provide Members an opportunity to receive reduced fees or enhanced rebates. As stated, no Members are currently satisfying the criteria under these tiers, nor have recently satisfied such criteria. Moreover, the Exchange believes it is reasonable to provide more consolidated, streamlined Customer Penny Add Volume Tiers by offering a single tier that provides an enhanced rebate of $0.53 (current Tier 6/new Tier 5), and believes that the proposed updated criteria in this single tier (current Tier 6/new Tier 5) is reasonably designed to provide a different opportunity for Members to achieve the tier to receive the same enhanced rebate.

Regarding the proposed rule change to the Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers, the Exchange believes that it is reasonable and equitable to incrementally increase the difficulty in meeting the tiers' criteria, by marginally increasing the volume threshold over average OCV and by adding additional prongs of criteria, as it is reasonably designed to incentivize Members to submit additional requisite liquidity to

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f.(b)(5).

[16] *See, e.g.,* NYSE Arca Options Fee Schedule, Trade-Related charges for Standard Options, which similarly provide various ranges of credits and discounts for volume-based tiers geared toward different market participants in penny or non-penny classes, such as Customer Penny Posting Credit Tiers, Firm and Broker-Dealer Penny Posting Tiers, and Customer Posting Credit Tiers in Non-Penny Issues; *and* Cboe EDGX U.S. Options Exchange Fee Schedule, Footnotes, which provide for similar Customer Volume Tiers and Market Maker Volume Tiers.

[17] *See generally* BZX Options Fee Schedule, Footnotes.

meet the updated criteria. The Exchange also believes that the marginally increased reduced fees, as proposed, offered under each of the Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers continue to be a reasonable distribution of reduced fees, commensurate with the corresponding proposed criteria. The Exchange notes that it offers similar reduced rates for criteria of comparable difficulty in other volume-based tier programs. For example, Tier 2 of the Non-Customer Non-Penny Take Volume Tiers in Footnote 13 of the Fee Schedule offers a higher reduced fee ($1.07) than the proposed reduced fees ($0.49, $0.48 and $0.47) where a Member must meet three different prongs of criteria.

The Exchange also believes that it is reasonable and equitable to update the Customer Non-Penny Add Volume Tiers to provide different criteria (which the Exchange does not believe is necessarily more or less difficult than the existing criteria) and to also provide new criteria via new tiers because these modifications and additions are reasonably designed to provide Members with increased supplementary opportunities to receive corresponding enhanced rebates. The Exchange also believes that the marginally decreased enhanced rebates, as proposed, continue to be a reasonable distribution of enhanced rebates, commensurate with the corresponding proposed criteria, as the Customer Non-Penny Add Volume Tiers continue to offer a range of enhanced rebates ($0.90 to $1.05, as proposed) within a comparable range as offered today ($0.92 to $1.06). The proposed rule change just provides additional opportunities within the proposed comparable range of enhanced rebates for Members to meet criteria and receive an enhanced rebate.

The Exchange believes that the proposed updated and new tiers represent an equitable allocation of fees and are not unfairly discriminatory because the Customer Penny Add Volume, Market Maker, Away Market Maker, and Professional Penny Take Volume, and Customer Non-Penny Add Volume Tiers Add Penny Tiers, as proposed, will continue to apply uniformly to all qualifying Members, in that all Members that submit the requisite order flow per each tier program have the opportunity to compete for and achieve the proposed tiers. The proposed changes to and additions of criteria in the Customer Penny Add Volume, Market Maker, Away Market Maker, and Professional Penny Take Volume, and Customer Non-Penny Add Volume Tiers are designed as an incentive to any and all Members interested in meeting modified and new tier criteria to submit additional, requisite order flow directly to the Exchange's Book. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change will definitely result in any Members qualifying for the proposed tiers. While the Exchange has no way of predicting with certainty how the proposed tiers will impact Member activity, the Exchange anticipates that: Between five and six Members will be able to compete for and potentially achieve the proposed criteria in Customer Penny Add Volume Tier 5 (current Tier 6); at least two Members will be able to compete for and potentially achieve the proposed criteria in each of the updated Market Maker, Away Market Maker, and Professional Penny Take [sic] Tiers 1, 2 and 3; and at least four Members will be able to compete for and potentially achieve the proposed criteria in across the updated Customer Non-Penny Add Volume Tiers 1, 4 and 5, and new Tiers 6, 7 and 8. The Exchange also notes that the proposed tiers will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Rather, should a Member not meet the proposed criteria for a tier, the Member will merely not receive the corresponding enhanced rebate or reduced fee, as applicable. Finally, the Exchange believes the proposal to eliminate certain tiers is equitable and not unfairly discriminatory because it applies to all Members, in that, such tiers will not be available for any Member.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [18]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed tiers apply to all Members equally, in that, all Members that submit the requisite order flow per each tier program are eligible to achieve the tiers' proposed criteria, have a reasonable opportunity to meet the tiers' proposed criteria and will all receive the corresponding reduced fees or enhanced rebates (as existing and proposed) if such criteria is met. Overall, the proposed rule change is designed to attract additional overall Customer and liquidity provider order flow to the Exchange, which, as described above, brings different, yet key, liquidity and trading activity to the Exchange, resulting in overall tighter spreads, more execution opportunities at improved prices, and/or deeper levels of liquidity, which ultimately improves price transparency, provides continuous trading opportunities and enhances market quality on the Exchange, and generally continues to encourage Members to send orders to the Exchange, thereby contributing towards a robust and well-balanced market ecosystem to the benefit of all market participants.

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. Members have numerous alternative venues that they may participate on and director their order flow, including 15 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 16% of the market share.[19] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the

[18] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[19] *See supra* note 3.

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.'' [20] 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'. . . .''.[21] 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 neither solicited nor received comments on the proposed rule change.

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 [22] and paragraph (f) of Rule 19b–4 [23] 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–CboeBZX–2021–055 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–2021–055. 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–2021–055 and should be submitted on or before September 7, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

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[20] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[21] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–560; OMB Control No. 3235–0622]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Interagency Statement on Sound Practices

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in the proposed Interagency Statement on Sound Practices Concerning Elevated Risk Complex Structured Finance Transactions (''Statement'') under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'') and the Investment Advisers Act of 1940 (15 U.S.C. 80b *et seq.*) (''Advisers Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The Statement was issued by the Commission, together with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (together, the ''Agencies''), in May 2006. The Statement describes the types of internal controls and risk management procedures that the Agencies believe are particularly effective in assisting financial institutions to identify and address the reputational, legal, and other risks associated with elevated risk complex structured finance transactions.

The primary purpose of the Statement is to ensure that these transactions receive enhanced scrutiny by the institution and to ensure that the institution does not participate in illegal or inappropriate transactions.

The Commission estimates that approximately 5 registered broker-dealers or investment advisers will spend an average of approximately 25 hours per year complying with the Statement. Thus, the total time burden is estimated to be approximately 125 hours per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 11, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–17533 Filed 8–16–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92643; File No. SR–MIAX–2021–35]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Fee Schedule To Adopt a Tiered-Pricing Structure for Certain Connectivity Fees

August 11, 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 30, 2021, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to amend certain connectivity fees.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt a tiered-pricing structure for the 10 gigabit (''Gb'') ultra-low latency (''ULL'') fiber connection available to Members [3] and non-Members. The Exchange believes a tiered-pricing structure will encourage Members and non-Members to be more efficient and economical when determining how to connect to the Exchange. This should also enable the Exchange to better monitor and provide access to the Exchange's network to ensure sufficient capacity and headroom in the System.[4]

10Gb ULL Tiered-Pricing Structure

The Exchange proposes to amend Sections (5)(a)–(b) of the Fee Schedule to provide for a tiered-pricing structure for 10Gb ULL connections for Members and non-Members. Currently, the Exchange assesses Members and non-Members a flat monthly fee of $10,000 per 10Gb ULL connection for access to the Exchange's primary and secondary facilities.

The Exchange now proposes to move from a flat monthly fee per connection to a tiered-pricing structure per connection under which the monthly fee would vary depending on the number of 10Gb ULL connections each Member or non-Member elects to purchase per exchange. Specifically, the Exchange proposes to decrease the fee for the first and second 10Gb ULL connections for each Member and non-Member from the current flat monthly fee of $10,000 to $9,000 per connection. To encourage more efficient connectivity usage, the Exchange proposes to increase the per connection fee for Members and non-Members that purchase more than two 10Gb ULL connections. Specifically, (i) the third and fourth 10Gb ULL connections for each Member or non-Member will increase from the current flat monthly fee of $10,000 to $11,000 per connection; and (ii) for the fifth 10Gb ULL connection, and for each 10Gb ULL connection for each Member and non-Member purchased thereafter, the fee will increase from the flat monthly fee of $10,000 to $13,000 per connection. The proposed 10Gb ULL tiered-pricing structure and fees are collectively referred to herein as the ''Proposed Access Fees.''

The Exchange will continue to assess monthly Member and non-Member network connectivity fees for connectivity to the primary and secondary facilities in any month the Member or non-Member is credentialed to use any of the MIAX APIs or market data feeds in the production environment. The Exchange proposes to pro-rate the fees when a Member or non-Member makes a change to the connectivity (by adding or deleting connections) with such pro-rated fees based on the number of trading days that the Member or non-Member has been credentialed to utilize any of the MIAX APIs or market data feeds in the production environment through such

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

connection, divided by the total number of trading days in such month multiplied by the applicable monthly rate. The Exchange will continue to assess monthly Member and non-Member network connectivity fees for connectivity to the disaster recovery facility in each month during which the Member or non-Member has established connectivity with the disaster recovery facility.

The Exchange's MIAX Express Network Interconnect (''MENI'') can be configured to provide Members and non-Members of the Exchange network connectivity to the trading platforms, market data systems, test systems, and disaster recovery facilities of both the Exchange and its affiliate, MIAX PEARL, LLC (''MIAX Pearl''), via a single, shared connection. Members and non-Members utilizing the MENI to connect to the trading platforms, market data systems, test systems, and disaster recovery facilities of the Exchange and MIAX Pearl via a single, shared connection will continue to only be assessed one monthly connectivity fee per connection, regardless of the trading platforms, market data systems, test systems, and disaster recovery facilities accessed via such connection.

Further, utilizing the proposed tiered-pricing structure, any firm that is a Member of both MIAX and MIAX Pearl Options and purchases three or four total 10Gb ULL connections, can effectively allocate one or two 10Gb ULL connections to MIAX at the lowest rate and the other one or two 10Gb ULL connections to MIAX Pearl Options at the lowest rate, providing additional cost saving benefits to those Members and non-Members, due to the shared MENI infrastructure of MIAX and MIAX Pearl.

Implementation Date

The proposed fee changes will become effective on August 1, 2021.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(4) of the Act [6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act [7] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees for services and products, in addition to order flow, to remain competitive with other exchanges. The Exchange believes that the proposed changes reflect this competitive environment.

The Exchange believes the proposal to move from a flat fee per month for the 10Gb ULL connection to a tiered-pricing structure is reasonable, equitably allocated and not unfairly discriminatory because the Exchange believes the proposed structure would encourage firms to be more economical and efficient in the number of connections they purchase. The Exchange believes this will enable the Exchange to better monitor and provide access to the Exchange's network to ensure sufficient capacity and headroom in the System.

The Exchange believes that the proposal to move to a tiered-pricing structure for its 10Gb ULL connections is reasonable, equitably allocated and not unfairly discriminatory because the majority of Members and non-Members that purchase 10Gb ULL connections will either save money or pay the same amount after the tiered-pricing structure is implemented. Based on a recently completed billing cycle, of the firms that purchased at least one 10Gb ULL connection, approximately 80% will see a proposed decrease in their monthly fees and approximately 20% will see a proposed increase in their monthly fees as a result of the proposed tiered-pricing structure versus the current flat monthly fee structure. To illustrate, firms that purchase only one 10Gb ULL connection per month currently pay the flat rate of $10,000 per month for that one 10Gb ULL connection. Pursuant to the proposed tiered-pricing structure, these firms will now pay $9,000 per month for that one 10Gb ULL connection, saving $1,000 per month or $12,000 annually. Further, firms that purchase two 10Gb ULL connections per month currently pay the flat rate of $20,000 per month ($10,000 x 2) for those two 10Gb ULL connections. Pursuant to the proposed tiered-pricing structure, these firms will now pay $18,000 per month ($9,000 x 2) for those two 10Gb ULL connections, saving $2,000 per month or $24,000 annually. Additionally, any firm that is a Member of both MIAX and MIAX Pearl Options and purchases four total 10Gb ULL connections, can effectively allocate two 10Gb ULL connections to MIAX at the $9,000 rate (saving $2,000 per month as compared to the flat fee) and two 10Gb ULL connections to MIAX Pearl Options at the $9,000 rate (saving an additional $2,000 per month as compared to the flat fee), for a total savings of $4,000 per month, or $48,000 annually over the current flat monthly fee structure, due to the shared MENI infrastructure of MIAX and MIAX Pearl.

The Exchange also notes that, for firms that primarily route orders seeking best-execution, a limited number of connections are needed. Therefore, the connectivity costs will likely be lower for these firms based on the proposed tiered-pricing structure. The firms that engage in advanced trading strategies typically require multiple connections and, therefore, generate higher costs by utilizing more of the Exchange's resources. These firms will absorb the increased connectivity cost based on the proposed tiered-pricing structure, as shown by the 20% of firms that will likely see an increase in their monthly fees. Additionally, the firms that purchase a higher amount of 10Gb ULL connections tend to have specific business oriented market making and taking strategies, as opposed to firms simply engaging in best-execution order routing business.

The Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the requirements of the Act that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among market participants. The Exchange believes this high standard is especially important when an exchange imposes various access fees for market participants to access an exchange's marketplace. The Exchange deems connectivity to be access fees. It records these fees as part of its ''Access Fees'' revenue in its financial statements. The Exchange believes that it is important to demonstrate that these fees are based on its costs and reasonable business needs. The Exchange believes the Proposed Access Fees will allow the Exchange to offset expense the Exchange has and will incur, and that the Exchange is providing sufficient transparency (as

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(5).

described below) into how the Exchange determined to charge such fees. Accordingly, the Exchange is providing an analysis of its revenues, costs, and profitability associated with the Proposed Access Fees. This analysis includes information regarding its methodology for determining the costs and revenues associated with the Proposed Access Fees.

In order to determine the Exchange's costs to provide the access services associated with the Proposed Access Fees, the Exchange conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the Proposed Access Fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the access services. The sum of all such portions of expenses represents the total cost of the Exchange to provide the access services associated with the Proposed Access Fees. For the avoidance of doubt, no expense amount was allocated twice. The Exchange is also providing detailed information regarding the Exchange's cost allocation methodology—namely, information that explains the Exchange's rationale for determining that it was reasonable to allocate certain expenses described in this filing towards the cost to the Exchange to provide the access services associated with the Proposed Access Fees.

In order to determine the Exchange's projected revenue associated with the Proposed Access Fees, the Exchange analyzed the number of Members and non-Members currently utilizing the 10Gb ULL fiber connection, and, utilizing a recent monthly billing cycle representative of 2021 monthly revenue, extrapolated annualized revenue on a going-forward basis. The Exchange does not believe it is appropriate to factor into its analysis future revenue growth or decline into its projections for purposes of these calculations, given the uncertainty of such projections due to the continually changing access needs of market participants, discounts that can be achieved due to lower trading volume and vice versa, market participant consolidation, etc. Additionally, the Exchange similarly does not factor into its analysis future cost growth or decline. The Exchange is presenting its revenue and expense associated with the Proposed Access Fees in this filing in a manner that is consistent with how the Exchange presents its revenue and expense in its Audited Unconsolidated Financial Statements. The Exchange's most recent Audited Unconsolidated Financial Statement is for 2020. However, since the revenue and expense associated with the Proposed Access Fees were not in place in 2020 or for the first seven months of 2021, the Exchange believes its 2020 Audited Unconsolidated Financial Statement is not useful for analyzing the reasonableness of the total annual revenue and costs associated with the Proposed Access Fees. Accordingly, the Exchange believes it is more appropriate to analyze the Proposed Access Fees utilizing its 2021 revenue and costs, as described herein, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements. Based on this analysis, the Exchange believes that the Proposed Access Fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit when comparing the Exchange's total annual expense associated with providing the services associated with the Proposed Access Fees versus the total projected annual revenue the Exchange will collect for providing those services.

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On March 29, 2019, the Commission issued its Order Disapproving Proposed Rule Changes to Amend the Fee Schedule on the BOX Market LLC Options Facility to Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network (the ''BOX Order'').[8] On May 21, 2019, the Commission issued the Staff Guidance on SRO Rule Filings Relating to Fees.[9] Accordingly, the Exchange believes that the Proposed Access Fees are consistent with the Act because they (i) are reasonable, equitably allocated, not unfairly discriminatory, and not an undue burden on competition; (ii) comply with the BOX Order and the Guidance; (iii) are supported by evidence (including comprehensive revenue and cost data and analysis) that they are fair and reasonable because they will not result in excessive pricing or supra-competitive profit; and (iv) utilize a cost-based justification framework that is substantially similar to a framework previously used by the Exchange, and its affiliates MIAX Pearl and MIAX Emerald, LLC (''MIAX Emerald''), to establish or increase other non-transaction fees.[10] Accordingly, the Exchange believes that the Proposed Access Fees are consistent with the Act.

* * * * *

As of July 27, 2021, the Exchange had a market share of only 6.22% of the U.S. equity options industry for the month of July 2021.[11] The Exchange is not aware of any evidence that a market share of approximately 6–7% provides the Exchange with anti-competitive pricing power. If the Exchange were to attempt to establish unreasonable pricing, then no market participant would join or connect, and existing market participants would disconnect.

Separately, the Exchange is not aware of any reason why market participants could not simply drop their access (or not initially access an exchange) if an exchange were to establish prices for its non-transaction fees that, in the determination of such market participant, did not make business or economic sense for such market participant to access such exchange. No options market participant is required by rule, regulation, or competitive forces to be a Member of the Exchange. As evidence of the fact that market participants can and do drop their access to exchanges based on non-transaction fee pricing, R2G Services LLC (''R2G'') filed a comment letter after BOX's proposed rule changes to increase its connectivity fees (SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04). The R2G Letter stated, ''[w]hen BOX instituted a $10,000/month price increase for connectivity; we had no choice but to terminate connectivity into them as well as terminate our market data relationship. The cost benefit analysis just didn't make any sense for us at those new levels.'' Similarly, the Exchange's affiliate, MIAX Emerald, noted in a recent filing that once MIAX Emerald issued a notice that it was instituting MEI Port fees, among other non-transaction fees, one MIAX Emerald Member dropped its access to MIAX Emerald as a result of those fees.[12]

[8] *See* Securities Exchange Act Release No. 85459 (March 29, 2019), 84 FR 13363 (April 4, 2019) (SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04).

[9] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees* (the ''Guidance'').

[10] See Securities Exchange Act Release Nos. 90981 (January 25, 2021), 86 FR 7582 (January 29, 2021) (SR–PEARL–2021–01) (proposal to increase connectivity fees); 91460 (April 2, 2021), 86 FR 18349 (SR–EMERALD–2021–11) (proposal to adopt port fees, increase connectivity fees, and increase additional limited service ports); 91033 (February 1, 2021), 86 FR 8455 (February 5, 2021) (SR–EMERALD–2021–03) (proposal to adopt trading permit fees).

[11] *See* ''The market at a glance,'' available at *https://www.miaxoptions.com/* (last visited July 27, 2021).

[12] *See* Securities Exchange Act Release No. 91460 (April 2, 2021), 86 FR 18349 (April 8, 2021) (SR–EMERALD–2021–11) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Port Fees,

Accordingly, these examples show that if an exchange sets too high of a fee for connectivity and/or other non-transaction fees for its relevant marketplace, market participants can choose to drop their access to such exchange.

In order to provide more detail and to quantify the Exchange's costs associated with providing access to the Exchange in general, the Exchange notes that there are material costs associated with providing the infrastructure and headcount to fully-support access to the Exchange. The Exchange incurs technology expense related to establishing and maintaining Information Security services, enhanced network monitoring and customer reporting, as well as Regulation SCI mandated processes, associated with its network technology. While some of the expense is fixed, much of the expense is not fixed, and thus increases as the services associated with the Proposed Access Fees increase. For example, new Members to the Exchange may require the purchase of additional hardware to support those Members as well as enhanced monitoring and reporting of customer performance that the Exchange and its affiliates provide. Further, as the total number Members increases, the Exchange and its affiliates may need to increase their data center footprint and consume more power, resulting in increased costs charged by their third-party data center provider. Accordingly, the cost to the Exchange and its affiliates to provide access to its Members is not fixed. The Exchange believes the Proposed Access Fees are reasonable in order to offset a portion of the costs to the Exchange associated with providing access to its network infrastructure.

The Exchange only has four primary sources of revenue: Transaction fees, access fees (which includes the Proposed Access Fees), regulatory fees, and market data fees. Accordingly, the Exchange must cover all of its expenses from these four primary sources of revenue.

The Exchange believes that the Proposed Access Fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit, when comparing the total annual expense that the Exchange and MIAX Pearl project to incur in connection with providing these access services versus the total annual revenue that the Exchange projects to collect in connection with services associated with the Proposed Access Fees. For 2021,[13] the total annual expense for providing the access services associated with the Proposed Access Fees (that is, the shared network connectivity of the Exchange and MIAX Pearl, but excluding MIAX Emerald) is projected to be approximately $15.9 million. The approximately $15.9 million in projected total annual expense is comprised of the following, all of which are directly related to the access services associated with the Proposed Access Fees: (1) Third-party expense, relating to fees paid by the Exchange to third-parties for certain products and services; and (2) internal expense, relating to the internal costs of the Exchange and MIAX Pearl to provide the services associated with the Proposed Access Fees.[14] As noted above, the Exchange believes it is more appropriate to analyze the Proposed Access Fees utilizing its 2021 revenue and costs, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements.[15] The $15.9 million in projected total annual expense is directly related to the access services associated with the Proposed Access Fees, and not any other product or service offered by the Exchange. It does not include general costs of operating matching systems and other trading technology, and no expense amount was allocated twice.

As discussed, the Exchange conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger (this includes over 150 separate and distinct expense items) to determine whether each such expense relates to the access services associated with the Proposed Access Fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports those services, and thus bears a relationship that is, ''in nature and closeness,'' directly related to those services. The sum of all such portions of expenses represents the total cost of the Exchange to provide access services associated with the Proposed Access Fees.

For 2021, total third-party expense, relating to fees paid by the Exchange and MIAX Pearl to third-parties for certain products and services for the Exchange to be able to provide the access services associated with the Proposed Access Fees, is projected to be $3.9 million. This includes, but is not limited to, a portion of the fees paid to: (1) Equinix, for data center services, for the primary, secondary, and disaster recovery locations of the Exchange's trading system infrastructure; (2) Zayo Group Holdings, Inc. (''Zayo'') for network services (fiber and bandwidth products and services) linking the Exchange's and MIAX Pearl's office locations in Princeton, New Jersey and Miami, Florida, to all data center locations; (3) Secure Financial Transaction Infrastructure (''SFTI''),[16] which supports connectivity and feeds for the entire U.S. options industry; (4) various other services providers (including Thompson Reuters, NYSE, Nasdaq, and Internap), which provide content, connectivity services, and infrastructure services for critical components of options connectivity and network services; and (5) various other hardware and software providers (including Dell and Cisco, which support the production environment in which Members connect to the network to trade, receive market data, etc.).

For clarity, only a portion of all fees paid to such third-parties is included in the third-party expense herein, and no expense amount is allocated twice. Accordingly, the Exchange and MIAX Pearl do not allocate their entire information technology and communication costs to the access services associated with the Proposed Access Fees. Further, the Exchange notes that, with respect to the MIAX Pearl expenses included herein, those expenses only cover the MIAX Pearl

Increase Certain Network Connectivity Fees, and Increase the Number of Additional Limited Service MIAX Emerald Express Interface Ports Available to Market Makers) (adopting tiered MEI Port fee structure ranging from $5,000 to $20,500 per month).

[13] The Exchange has not yet finalized its 2021 year end results.

[14] The percentage allocations used in this proposed rule change may differ from past filings from the Exchange or its affiliates due to, among other things, changes in expenses charged by third-parties, adjustments to internal resource allocations, and different system architecture of the Exchange as compared to its affiliates.

[15] For example, the Exchange previously noted that all third-party expense described in its prior fee filing was contained in the information technology and communication costs line item under the section titled ''Operating Expenses Incurred Directly or Allocated From Parent,'' in the Exchange's 2019 Form 1 Amendment containing its financial statements for 2018. *See* Securities Exchange Act Release No. 87875 (December 31, 2019), 85 FR 770 (January 7, 2020) (SR–MIAX–2019–51). Accordingly, the third-party expense described in this filing is attributed to the same line item for the Exchange's 2021 Form 1 Amendment, which will be filed in 2022.

[16] In fact, on October 22, 2019, the Exchange was notified by SFTI that it is again raising its fees charged to the Exchange by approximately 11%, without having to show that such fee change complies with the Act by being reasonable, equitably allocated, and not unfairly discriminatory. It is unfathomable to the Exchange that, given the critical nature of the infrastructure services provided by SFTI, that its fees are not required to be rule-filed with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively.

options market; expenses associated with MIAX Pearl Equities are accounted for separately and are not included within the scope of this filing.

The Exchange believes it is reasonable to allocate such third-party expense described above towards the total cost to the Exchange and MIAX Pearl to provide the access services associated with the Proposed Access Fees. In particular, the Exchange believes it is reasonable to allocate the identified portion of the Equinix expense because Equinix operates the data centers (primary, secondary, and disaster recovery) that host the Exchange's network infrastructure. This includes, among other things, the necessary storage space, which continues to expand and increase in cost, power to operate the network infrastructure, and cooling apparatuses to ensure the Exchange's network infrastructure maintains stability. Without these services from Equinix, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the Equinix expense toward the cost of providing the access services associated with the Proposed Access Fees, only that portion which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 62% of the total applicable Equinix expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portion of the Zayo expense because Zayo provides the internet, fiber and bandwidth connections with respect to the network, linking the Exchange with its affiliates, MIAX Pearl and MIAX Emerald, as well as the data center and disaster recovery locations. As such, all of the trade data, including the billions of messages each day per exchange, flow through Zayo's infrastructure over the Exchange's network. Without these services from Zayo, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees. The Exchange did not allocate all of the Zayo expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to providing the Proposed Access Fees, approximately 62% of the total applicable Zayo expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portions of the SFTI expense and various other service providers' (including Thompson Reuters, NYSE, Nasdaq, and Internap) expense because those entities provide connectivity and feeds for the entire U.S. options industry, as well as the content, connectivity services, and infrastructure services for critical components of the network. Without these services from SFTI and various other service providers, the Exchange would not be able to operate and support the network and provide access to its Members and their customers. The Exchange did not allocate all of the SFTI and other service providers' expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 75% of the total applicable SFTI and other service providers' expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees.

The Exchange believes it is reasonable to allocate the identified portion of the other hardware and software provider expense because this includes costs for dedicated hardware licenses for switches and servers, as well as dedicated software licenses for security monitoring and reporting across the network. Without this hardware and software, the Exchange would not be able to operate and support the network and provide access to its Members and their customers. The Exchange did not allocate all of the hardware and software provider expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 51% of the total applicable hardware and software provider expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees.

For 2021, total projected internal expense, relating to the internal costs of the Exchange and MIAX Pearl to provide the access services associated with the Proposed Access Fees, is projected to be approximately $12 million. This includes, but is not limited to, costs associated with: (1) Employee compensation and benefits for full-time employees that support the access services associated with the Proposed Access Fees, including staff in network operations, trading operations, development, system operations, business, as well as staff in general corporate departments (such as legal, regulatory, and finance) that support those employees and functions (including an increase as a result of the higher determinism project); (2) depreciation and amortization of hardware and software used to provide the access services associated with the Proposed Access Fees, including equipment, servers, cabling, purchased software and internally developed software used in the production environment to support the network for trading; and (3) occupancy costs for leased office space for staff that provide the access services associated with the Proposed Access Fees. The breakdown of these costs is more fully-described below. For clarity, only a portion of all such internal expenses are included in the internal expense herein, and no expense amount is allocated twice. Accordingly, the Exchange and MIAX Pearl do not allocate their entire costs contained in those items to the access services associated with the Proposed Access Fees.

The Exchange believes it is reasonable to allocate such internal expense described above towards the total cost to the Exchange to provide the access services associated with the Proposed Access Fees. In particular, the Exchange's and MIAX Pearl's combined employee compensation and benefits expense relating to providing the access services associated with the Proposed Access Fees is projected to be approximately $6.1 million, which is only a portion of the approximately $12.6 (for MIAX) and $9.2 million (for MIAX Pearl) total projected expense for employee compensation and benefits. The Exchange believes it is reasonable to allocate the identified portion of such expense because this includes the time spent by employees of several departments, including Technology, Back Office, Systems Operations, Networking, Business Strategy Development (who create the business requirement documents that the

Technology staff use to develop network features and enhancements), Trade Operations, Finance (who provide billing and accounting services relating to the network), and Legal (who provide legal services relating to the network, such as rule filings and various license agreements and other contracts). As part of the extensive cost review conducted by the Exchange, the Exchange reviewed the amount of time spent by each employee on matters relating to the provision of access services associated with the Proposed Access Fees. Without these employees, the Exchange would not be able to provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the employee compensation and benefits expense toward the cost of the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 28% of the total applicable employee compensation and benefits expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange's and MIAX Pearl's combined depreciation and amortization expense relating to providing the services associated with the Proposed Access Fees is projected to be $5.3 million, which is only a portion of the $4.8 million (for MIAX) and $2.9 million (for MIAX Pearl) total projected expense for depreciation and amortization. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network and provide the access services associated with the Proposed Access Fees. Without this equipment, the Exchange would not be able to operate the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 70% of the total applicable depreciation and amortization expense, as these access services would not be possible without relying on such. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange's and MIAX Pearl's combined occupancy expense relating to providing the services associated with the Proposed Access Fees is projected to be approximately $0.6 million, which is only a portion of the $0.6 million (for MIAX) and $0.5 million (for MIAX Pearl) total projected expense for occupancy. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense represents the portion of the Exchange's cost to rent and maintain a physical location for the Exchange's staff who operate and support the network, including providing the access services associated with the Proposed Access Fees. This amount consists primarily of rent for the Exchange's Princeton, NJ office, as well as various related costs, such as physical security, property management fees, property taxes, and utilities. The Exchange operates its Network Operations Center (''NOC'') and Security Operations Center (''SOC'') from its Princeton, New Jersey office location. A centralized office space is required to house the staff that operates and supports the network. The Exchange currently has approximately 150 employees. Approximately two-thirds of the Exchange's staff are in the Technology department, and the majority of those staff have some role in the operation and performance of the access services associated with the Proposed Access Fees. Without this office space, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. Accordingly, the Exchange believes it is reasonable to allocate the identified portion of its occupancy expense because such amount represents the Exchange's actual cost to house the equipment and personnel who operate and support the Exchange's network infrastructure and the access services associated with the Proposed Access Fees. The Exchange did not allocate all of the occupancy expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to operating and supporting the network, approximately 53% of the total applicable occupancy expense. The Exchange believes this allocation is reasonable because it represents the Exchange's cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange notes that a material portion of its total overall expense is allocated to the provision of access services (including connectivity, ports, and trading permits). The Exchange believes this is reasonable and in line, as the Exchange operates a technology-based business that differentiates itself from its competitors based on its trading systems that rely on access to a high performance network, resulting in significant technology expense. Over two-thirds of Exchange staff are technology-related employees. The majority of the Exchange's expense is technology-based. As described above, the Exchange and MIAX Pearl have only four primary sources of fees to recover their costs; thus, the Exchange and MIAX Pearl believe it is reasonable to allocate a material portion of their total overall expense towards access fees.

Accordingly, based on the facts and circumstances presented, the Exchange believes that its provision of the access services associated with the Proposed Access Fees will not result in excessive pricing or supra-competitive profit. To illustrate, on a going-forward, fully-annualized basis, the Exchange and MIAX Pearl project that annualized revenue for providing the access services associated with the Proposed Access Fees would be approximately $22 million per annum, based on a recent billing cycle.[17] The Exchange and MIAX Pearl project that their annualized revenue for providing network connectivity services (all connectivity alternatives) to be approximately $22.8 million per annum. The Exchange and MIAX Pearl project that their annualized expense for providing network connectivity services (all connectivity alternatives) to be approximately 15.9 million per annum. Accordingly, on a fully-annualized basis, the Exchange and MIAX Pearl believe their total projected revenue for

[17] The Exchange and MIAX Pearl also project approximately $69,550 in monthly revenue through 1Gb connections; however, the Exchange and MIAX Pearl do not propose to adjust the fees for those connections at this time.

the providing the access services associated with the Proposed Access Fees will not result in excessive pricing or supra-competitive profit, as the Exchange and MIAX Pearl will make a profit margin of only approximately 30% inclusive of the Proposed Access Fees and all other connectivity alternatives ($22.8 million in total connectivity revenue minus $15.9 million in expense = $6.9 million in profit per annum). Additionally, this profit margin does not take into account the cost of capital expenditures (''CapEx'') the Exchange and MIAX Pearl historically spent or are projected to spend each year on CapEx going forward.

For the avoidance of doubt, none of the expenses included herein relating to the access services associated with the Proposed Access Fees relate to the provision of any other services offered by the Exchange or MIAX Pearl. Stated differently, no expense amount of the Exchange is allocated twice. The Exchange notes that, with respect to the MIAX Pearl expenses included herein, those expenses only cover the MIAX Pearl options market; expenses associated with the MIAX Pearl equities market and the Exchange's affiliate, MIAX Emerald, are accounted for separately and are not included within the scope of this filing. Stated differently, no expense amount of the Exchange is also allocated to MIAX Pearl Equites or MIAX Emerald.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to allocate the respective percentages of each expense category described above towards the total cost to the Exchange of operating and supporting the network, including providing the access services associated with the Proposed Access Fees because the Exchange performed a line-by-line item analysis of all the expenses of the Exchange, and has determined the expenses that directly relate to providing access to the Exchange and MIAX Pearl. Further, the Exchange notes that, without the specific third-party and internal items listed above, the Exchange would not be able to provide the access services associated with the Proposed Access Fees to its Members and their customers. Each of these expense items, including physical hardware, software, employee compensation and benefits, occupancy costs, and the depreciation and amortization of equipment, have been identified through a line-by-line item analysis to be integral to providing access services. The Proposed Access Fees are intended to recover the Exchange's and MIAX Pearl's costs of providing access to their Systems. Accordingly, the Exchange believes that the Proposed Access Fees are fair and reasonable because they do not result in excessive pricing or supra-competitive profit, when comparing the actual costs to the Exchange versus the projected annual revenue from the Proposed Access Fees.

The Exchange believes the proposed changes are reasonable, equitably allocated and not unfairly discriminatory, and do not result in a ''supra-competitive'' [18] profit. Of note, the Guidance defines ''supra-competitive profit'' as profits that exceed the profits that can be obtained in a competitive market.[19] With the proposed changes, the Exchange and MIAX Pearl anticipate they will have a profit margin of approximately 30%, inclusive of the Proposed Access Fees and all other connectivity alternatives. Based on the 2020 Audited Financial Statements of competing options exchanges (since the 2021 Audited Financial Statements will likely not become publicly available until early July 2022, after the Exchange has submitted this filing), the Exchange's profit margin is well below the operating profit margins of other competing exchanges. For example, Nasdaq ISE, LLC's (''ISE'') operating profit margin for all of 2020 was approximately 85%; Nasdaq PHLX LLC's (''PHLX'') operating profit margin for all of 2020 was approximately 49%; the Nasdaq Stock Market LLC's (''Nasdaq'') operating profit margin for all of 2020 was approximately 62%; NYSE Arca, Inc.'s (''Arca'') operating profit margin for all of 2020 was approximately 55%; NYSE American LLC's (''Amex'') operating profit margin for all of 2020 was approximately 59%; Cboe Exchange, Inc.'s (''Cboe'') operating profit margin for all of 2020 was approximately 74%; and Cboe BZX Exchange, Inc.'s (''BZX'') operating profit margin for all of 2020 was approximately 52%.

The Exchange believes that the Proposed Access Fees are reasonable, equitably allocated and not unfairly discriminatory because, for one 10Gb ULL connection, the Exchange provides each Member or non-Member access to all twenty-four (24) matching engines on MIAX. Under the proposed pricing-structure, the Exchange will assess each Member or non-Member $9,000 for the first 10Gb ULL connection. For that $9,000 monthly fee, each Member or non-Member has access to all twenty-four matching engines each month. This results in a per matching engine connectivity cost of only $375 ($9,000 divided by 24). The Exchange believes its connectivity cost to be less than or similar to connectivity fees charged by competing options exchanges.[20]

The Exchange further believes its proposed fees are reasonable, equitably allocated and not unfairly discriminatory because the Exchange believes that it benefits overall competition in the marketplace to allow relatively new entrants like the Exchange and its affiliates, MIAX Pearl and MIAX Emerald, to propose fees that may help these new entrants recoup their substantial investment in building out costly infrastructure. The Exchange and its affiliates have historically set their fees purposefully low in order to attract business and market share, and the proposed tiered-pricing structure will help make the rates consistent with other exchanges while not raising costs for a majority of the Exchange's Members and non-Members.

The Guidance provides that in determining whether a proposed fee is constrained by significant competitive forces, the Commission will consider whether there are reasonable substitutes for the product or service that is the subject of a proposed fee. As described below, the Exchange believes substitute products and services are available to market participants, including, among other things, other options exchanges that market participants may connect to in lieu of the Exchange, indirect connectivity to the Exchange via a third-party reseller and/or trading of any options products, including proprietary products, in the Over-the-Counter (''OTC'') markets.

There is also no regulatory requirement that any market participant connect to any one options exchange, that any market participant connect at a particular connection speed or act in a particular capacity on the Exchange, or

[18] *See supra* note 9.

[19] *See id.*

[20] *See* The Nasdaq Stock Market LLC (''NASDAQ'') Rules, General 8: Connectivity, Section 1. Co-Location Services (charging a monthly fee of $10,000 per 10Gb fiber connection, $15,000 per 10Gb Ultra fiber connection, and $20,000 per 40Gb fiber connection, plus installation fees ranging from $1,000 to $1,500). The Exchange notes that the same connectivity fees described above for NASDAQ also apply to its affiliates, Nasdaq ISE, LLC and NASDAQ PHLX LLC. *See* Nasdaq ISE Rules, General 8: Connectivity and NASDAQ PHLX Rules, General 8: Connectivity (both incorporating by reference the fees in NASDAQ Rules, General 8: Connectivity). *See also* NYSE American LLC Options Fee Schedule, Section IV (charging the following connectivity fees: $6,000 per connection initial charge plus $5,000 monthly per 1Gb circuit connection; $15,000 per connection initial charge plus $22,000 monthly per 10Gb LX LCN circuit connection; and $15,000 per connection initial charge plus $22,000 monthly charge per 40Gb LCN circuit connection).

trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on the Exchange. A market participant may submit orders to the Exchange via a Sponsored User.[21] Indeed, the Exchange is unaware of any one options exchange whose membership includes every registered broker-dealer. Based on a recent analysis conducted by the Cboe Exchange, Inc. (''Cboe''), as of October 21, 2020, only three (3) of the broker-dealers, out of approximately 250 broker-dealers, were members of at least one exchange that lists options for trading and were members of all 16 options exchanges.[22] Additionally, the Cboe Fee Filing found that several broker-dealers were members of only a single exchange that lists options for trading and that the number of members at each exchange that trades options varies greatly.[23]

The Exchange notes that non-Member third-parties, such as Service Bureaus and Extranets, resell the Exchange's connectivity. This indirect connectivity is another viable alternative for market participants to trade on the Exchange without connecting directly to the Exchange (and thus not pay the Exchange's connectivity fees), which alternative is already being used by non-Members and further constrains the price that the Exchange is able to charge for connectivity and other access fees to its market. The Exchange notes that it could, but chooses not to, preclude market participants from reselling its connectivity. The Exchange also chooses not to adopt fees that would be assessed to third-party resellers on a per customer basis (*i.e.,* fees based on the number of firms that connect to the Exchange indirectly via the third-party). Indeed, the Exchange does not receive any connectivity revenue when connectivity is resold by a third-party, which often is resold to multiple customers, some of whom are agency broker-dealers that have numerous customers of their own.[24] In sum, the Exchange believes this creates and fosters a competitive environment and subjects the Exchange to competitive forces in pricing its connectivity and access fees. Particularly, in the event that a market participant views the Exchange's direct connectivity and access fees as more or less attractive than competing markets, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to the Exchange and connect instead to one or more of the other 15 options markets. Accordingly, the Exchange believes that the Proposed Access Fees are fair and reasonable and do not result in excessive pricing or supra-competitive profit.

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.

With respect to intra-market competition, the Exchange does not believe that the proposed rule change would place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete. As stated above, the Exchange does not believe its proposed pricing will impose a barrier to entry to smaller participants and notes that its proposed connectivity pricing structure for its 10Gb ULL connections is associated with relative usage of the various market participants. Further, the majority of firms that purchase 10Gb ULL connections may either save money or pay the same amount after the tiered-pricing structure is implemented. While total cost may be increased for market participants with larger capacity needs or for business/technical preferences, such options provide far more capacity and are purchased by those that consume more resources from the network. Accordingly, the proposed tiered-pricing structure does not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation reflects the network resources consumed by the various usage of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pays the most, particularly since higher bandwidth consumption translates to higher costs to the Exchange.

The Exchange also does not believe that the proposed rule change will result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, options market participants are not forced to connect to all options exchanges. The Exchange operates in a highly competitive environment, and as discussed above, its ability to price access and connectivity is constrained by competition among exchanges and third parties. There are other options markets of which market participants may connect to trade options. There is also a possible range of alternative strategies, including routing to the exchange through another participant or market center or accessing the Exchange indirectly. For example, there are 15 other U.S. options exchanges, which the Exchange must consider in its pricing discipline in order to compete for market participants. In this competitive environment, market participants are free to choose which competing exchange or reseller to use to satisfy their business needs. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Accordingly, the Exchange does not believe its proposed fee changes impose 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[25] and Rule 19b–4(f)(2)[26] 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

[21] *See* Exchange Rule 210. The Sponsored User is subject to the fees, if any, of the Sponsoring Member. The Exchange notes that the Sponsoring Member is not required to publicize, let alone justify or file with the Commission its fees, and as such could charge the Sponsored User any fees it deems appropriate, even if such fees would otherwise be considered supra-competitive, or otherwise potentially unreasonable or uncompetitive.

[22] *See* Securities Exchange Act Release No. 90333 (November 4, 2020), 85 FR 71666 (November 10, 2020) (SR–CBOE–2020–105) (the ''Cboe Fee Filing''). The Cboe Fee Filing cited to the October 2020 Active Broker Dealer Report, provided by the Commission's Office of Managing Executive, on October 8, 2020.

[23] *Id.*

[24] The Exchange notes that resellers are not required to publicize, let alone justify or file with the Commission their fees, and as such could charge the market participant any fees it deems appropriate (including connectivity fees higher than the Exchange's connectivity fees), even if such fees would otherwise be considered potentially unreasonable or uncompetitive fees.

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2021–35 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–MIAX–2021–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2021–35 and should be submitted on or before September 7, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–17542 Filed 8–16–21; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92637; File No. SR–NASDAQ–2021–007]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt Additional Initial Listing Criteria for Companies Primarily Operating in Jurisdictions That Do Not Provide the PCAOB With the Ability To Inspect Public Accounting Firms

August 11, 2021.

On February 1, 2021, The Nasdaq Stock Market LLC (''Nasdaq'' 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 adopt additional initial listing criteria for companies primarily operating in jurisdictions that do not provide the Public Company Accounting Oversight Board (''PCAOB'') with the ability to inspect public accounting firms. The proposed rule change was published for comment in the **Federal Register** on February 16, 2021.[3] On March 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] On May 17, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7]

Section 19(b)(2) of the Act[8] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The date of publication of notice of filing of the proposed rule change was February 16, 2021. August 15, 2021 is 180 days from that date, and October 14, 2021 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[9] designates October 14, 2021, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NASDAQ–2021–007).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–17540 Filed 8–16–21; 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. 91089 (February 9, 2021), 86 FR 9549 (''Notice''). Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-nasdaq-2021-007/srnasdaq2021007.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 91413, 86 FR 17263 (April 1, 2021). The Commission designated May 17, 2021 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 91904, 86 FR 27659 (May 21, 2021).

[8] 15 U.S.C. 78s(b)(2).

[9] *Id.*

[10] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92640; File No. SR–NSCC–2021–005]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Increase the National Securities Clearing Corporation's Minimum Required Fund Deposit

August 11, 2021.

I. Introduction

On April 26, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2021–005 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] to increase its minimum required fund deposit. The Proposed Rule Change was published for comment in the **Federal Register** on May 14, 2021,[3] and the Commission has received comments [4] on the changes proposed therein.[5] On June 24, 2021, pursuant to Section 19(b)(2) of the Act,[6] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[7] On August 5, 2021, NSCC filed a partial amendment (''Partial Amendment No. 1'') to modify the Proposed Rule Change.[8] The Commission is publishing this notice to solicit comments on Partial Amendment No. 1 from interested persons and is approving the Proposed Rule Change, as modified by Partial Amendment No. 1, on an accelerated basis.[9]

II. Description of the Proposed Rule Change

Currently, NSCC requires each Member to maintain a minimum Required Fund Deposit [10] amount of $10,000.[11] NSCC proposes to increase each Member's minimum Required Fund Deposit amount to $250,000.

A. Background

NSCC provides central counterparty (''CCP'') services, including clearing, settlement, risk management, and a guarantee of completion for virtually all broker-to-broker trades involving equity securities, corporate and municipal debt securities, and certain other securities. In its role as a CCP, a key tool NSCC uses to manage its credit exposure to its Members is determining and collecting an appropriate Required Fund Deposit (*i.e.,* margin) from each Member.[12] A Member's Required Fund Deposit serves as collateral to mitigate potential losses to NSCC associated with the liquidation of the Member's portfolio should that Member default. The aggregate of all Members' Required Fund Deposits constitutes NSCC's Clearing Fund, which it would access, among other instances, should a defaulting Member's own Required Fund Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that Member's portfolio.[13]

NSCC conducts daily backtesting to evaluate whether each Member's Required Fund Deposit is sufficient to cover NSCC's credit exposures to that Member based on a simulated liquidation of the Member's portfolio on that day.[14] Backtesting is an ex-post comparison of actual outcomes with expected outcomes derived from the use of margin models.[15] A backtesting deficiency occurs when NSCC determines that the projected liquidation losses to NSCC arising in the event of a Member's default would be greater than the Member's Required Fund Deposit.[16] Therefore, backtesting deficiencies highlight exposure that could subject NSCC to potential losses under normal market conditions in the event that a Member defaults.[17]

NSCC regularly reviews backtesting results to assess the effectiveness of its margining requirements.[18] As part of its review, NSCC investigates the causes of any backtesting deficiencies, paying particular attention to repeat backtesting deficiencies that would result in the Member's backtesting coverage to fall below the 99% confidence target to determine if there is an identifiable cause of repeat backtesting deficiencies.[19] NSCC also evaluates whether multiple Members may experience backtesting deficiencies for the same underlying reason.[20]

Based on its regular reviews, NSCC states it has found that Members with Required Fund Deposits below $250,000 disproportionately experience repeat backtesting deficiencies because, should the Member's settlement activity abruptly increase, the additional exposure to NSCC would not be mitigated until the collection of the Required Fund Deposit either intraday or on the next business day.[21] NSCC states it has also found that its current minimum margin requirement of $10,000 is disproportionately lower

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 91809 (May 10, 2021), 86 FR 26588 (May 14, 2021) (File No. SR–NSCC–2021–005) (''Notice of Filing'').

[4] *See* Letter from Parsons, Behle & Latimer, Counsel for Alpine Securities Corporation, dated June 4, 2021, to Vanessa Countryman, Secretary, Commission (''Alpine Letter''), available at *https://www.sec.gov/comments/sr-nscc-2021-005/srnscc2021005.htm.*

[5] NSCC appended an Exhibit 2 to the materials filed on April 26, 2021. The appended Exhibit 2 consists of a comment letter that NSCC received from one of its members objecting to NSCC's proposal in response to member outreach NSCC conducted in 2019 (''Wachtel Letter''). *See* Notice of Filing, *supra* note 3, at 26593. NSCC considered that comment in its Proposed Rule Change, and the Commission has considered the comment letter in making its determination, as discussed in Section III below. A copy of the comment letter is available at *https://www.dtcc.com/-/media/Files/Downloads/legal/rule-filings/2021/NSCC/SR-NSCC-2021-005.pdf.*

[6] 15 U.S.C. 78s(b)(2).

[7] Securities Exchange Act Release No. 92250 (June 24, 2021), 86 FR 34798 (June 30, 2021) (File No. SR–NSCC–2021–005).

[8] In Partial Amendment No. 1, NSCC updates the proposed rule text filed as Exhibit 5 to the proposed rule change to include a legend to indicate a delayed implementation date, specifically that the rule change would be implemented not later than 20 business days after Commission approval of the Proposed Rule Change. NSCC did not change the purpose or substance of, or basis for, the Proposed Rule Change.

[9] References to the Proposed Rule Change from this point forward refer to the Proposed Rule Change as modified by Partial Amendment No. 1.

[10] Capitalized terms not defined herein are defined in NSCC's Rules and Procedures (''Rules''), *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[11] *See* Section 1 of Rule 4, *id.*

[12] *See* Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of the Rules (''Procedure XV''), *supra* note 8. The minimum Required Fund Deposit amount is required to be in cash. *See* Section II.(A) of Procedure XV, *supra* note 8.

[13] *See id.*

[14] *See* Securities Exchange Act Release No. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (NSCC–2017–008) (adopting Model Risk Management Framework and stating that Required Fund Deposit backtesting would be performed at least on a daily basis); Securities Exchange Act Release No. 84458 (October 19, 2018), 83 FR 53925 (October 25, 2018) (File No. SR–NSCC–2018–009) (amending the Model Risk Management Framework to provide enhanced governance).

[15] *See* 17 CFR 240.17Ad–22(a)(1).

[16] *See* Notice of Filing, *supra* note 3, at 26589.

[17] *See id.*

[18] *See* Notice of Filing, *supra* note 3, at 26589.

[19] NSCC states a Member's backtesting coverage would fall below the 99% confidence target if the Member has more than two backtesting deficiency days in a rolling twelve-month period. *See* Notice of Filing, *supra* note 3, at 26589. In other words, if a Member has three or more backtesting deficiency days during a twelve-month period, then the Member's margin would not be sufficient 99% of the time. NSCC believes that its targeted 99% confidence level is consistent with its regulatory requirements under Rule 17Ad–22(e)(4)(i) and (e)(6)(iii). 17 CFR 240.17Ad–22 (e)(4)(i), and (e)(6)(iii).

[20] *See* Notice of Filing, *supra* note 3, at 26589.

[21] *See id.*

than the minimum margin requirements of other CCPs that clear similar securities products.[22]

Therefore, NSCC proposes to increase its minimum Required Fund Deposit from $10,000 to $250,000.

B. Impact Study Results

To support its proposal, NSCC relies upon the results of recent backtesting analyses.[23] Specifically, NSCC examines the backtesting coverage[24] of each of its Members during the period from June 3, 2019 to May 29, 2020, under the current $10,000 minimum Required Fund Deposit amount compared to hypothetical (or ''pro forma'') minimum Required Fund Deposit amounts, including the proposed $250,000 amount and $100,000 (''Impact Study Results'').[25] NSCC uses the Impact Study Results to show the number of Member backtesting deficiencies[26] that would have been eliminated during the period had NSCC's minimum Required Fund Deposit been $250,000 and compared to $100,000. NSCC then uses the Impact Study Results to analyze the improvement to each Member's backtesting coverage ratio[27] and, taking all Members' backtesting coverage ratio results together, to analyze the improvement to NSCC's Clearing Fund backtesting coverage.[28]

During the impact study period under the current minimum Required Fund Deposit, NSCC observed a total of 227 Member backtesting deficiencies, and 29 Members experienced repeat backtesting deficiencies causing them to fall below the 99% confidence target.[29] Members with a Required Fund Deposit lower than $250,000 accounted for 22% of the total backtesting deficiencies and constituted approximately 45% of the Members whose margin levels fell below the 99% confidence target.[30] Additionally, NSCC's twelve-month aggregate Clearing Fund backtesting coverage was 99.28%.

A minimum requirement of $250,000 would have eliminated 44 backtesting deficiencies across 13 Members and would have eliminated approximately 88% of the deficiencies that occurred on the days when Members maintained a Required Fund Deposit of less than $250,000.[31] Additionally, a minimum requirement of $250,000 would have improved NSCC's rolling twelve-month coverage for seven Members to above the 99% confidence interval.[32] NSCC states that, if the proposed $250,000 minimum had been in place, the remaining Members still below the 99% confidence interval would constitute only 27% of Members that fell below the 99% confidence target, which is comparable to those Members' overall representation as a class of NSCC's total Members.[33] Moreover, a minimum requirement of $250,000 would have increased NSCC's twelve-month aggregate Clearing Fund backtesting coverage by 0.14% to 99.41%.[34]

An increase to $250,000 compared to $100,000 would have further reduced NSCC's credit exposure to its Members by eliminating ten additional backtesting deficiencies from 34 to 44 total backtesting deficiencies and resulting in increasing two additional Members' margin levels to above the 99% confidence interval from five Members to seven Members. Additionally, NSCC's aggregate Clearing Fund backtesting coverage would have improved from 99.38% to 99.41% representing an increase of 0.03%.

NSCC had approximately 150 total Members during the impact study period.[35] Of those, 46 Members would be impacted by the proposed $250,000 minimum Required Fund Deposit.[36] On average, 18 Members maintained excess deposits greater than the proposed increase; therefore, 28 Members on average would have been required to deposit additional funds if the proposal had been implemented.[37] In addition, the 46 Members that would be impacted by the proposed $250,000 minimum Required Fund Deposit maintained excess net capital or equity capital (as applicable) (''ENC'') in excess of $800,000 on average over the Impact Study Period, ranging between an average of $834,000 to $211.5 billion, with 98% of the impacted Members having on average an ENC above $2.5 million.[38] NSCC states it used ENC in its analysis to estimate impacted Members' ability to satisfy additional Required Fund Deposit amounts required by the proposal.[39]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[40] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. After careful consideration, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations applicable to NSCC.[41] In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) and (b)(3)(I)[42] of the Act and Rules 17Ad–22(e)(4) and (e)(6) thereunder.[43]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency, such as NSCC, be designed, in part, 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.[44] The Commission believes

[22] *See id.* For example, the minimum initial contribution for The Options Clearing Corporation (''OCC'') is $500,000. *See* Rule 1002(d) of the OCC Rules, available at *https://www.theocc.com/components/docs/legal/rules_and_bylaws/occ_rules.pdf.* The minimum Required Fund Deposit for both the Government Securities Division (''GSD'') and Mortgage-Backed Securities Division (''MBSD'') of Fixed Income Clearing Corporation (''FICC'') is $100,000. *See* Rule 4 of FICC GSD Rulebook, available at *http://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf* and Rule 4 of the FICC MBSD Clearing Rules, available at *http://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf.*

[23] *See supra* text accompanying notes 12–16.

[24] *See supra* note 17 and accompanying text.

[25] NSCC provided a public summary of the information in this Section II.B in its Notice of Filing, upon which this discussion is based. *See* Notice of Filing, *supra* note 3, at 26590–92. NSCC filed the data underlying the Impact Study Results as a confidential Exhibit 3 to the Proposed Rule Change pursuant to 17 CFR 240.24b-2.

[26] *See supra* text accompanying notes 14–15.

[27] *See supra* note 17 and accompanying text.

[28] The Clearing Fund backtesting coverage represents the daily sufficiency of the aggregate of all Members' margin over a rolling 12-month period. As described in Section II.A above, NSCC would be able to access the Clearing Fund to cover any losses to it should a Member with insufficient margin default. *See supra* text accompanying note 11.

[29] *See id.*

[30] *See id.*

[31] *See* Notice of Filing, *supra* note 3, at 26590. Not all of the backtesting deficiencies would have been eliminated because if the Member's Required Fund Deposit calculation increases to above $250,000 intraday, due to, for example, increases in trading volume and/or adverse mark-to-market adjustments, the $250,000 proposed minimum Required Fund Deposit would still be insufficient to cover NSCC's exposure between margin collections. *See supra* text accompanying note 19.

[32] *See* Notice of Filing, *supra* note 3, at 26590.

[33] *See id.*

[34] *See id.*

[35] *See* CPMI IOSCO Quantitative Disclosure Results 2019 Q2 (September 25, 2019), available at *https://www.dtcc.com/-/media/Files/Downloads/legal/policy-and-compliance/CPMI-IOSCO-Quantitative-Disclosure-Results-2019-Q2-2.pdf.*

[36] *See* Notice of Filing, *supra* note 3 at 26593.

[37] *See id.*

[38] *See id.*

[39] *See id.*

[40] 15 U.S.C. 78s(b)(2)(C).

[41] The Commission's findings are based on its review of the Proposed Rule Change, including its analysis of the Impact Study Results, which are summarized in Section II.B above. *See supra* note 23 and accompanying text.

[42] 15 U.S.C. 78q–1(b)(3)(F).

[43] 17 CFR 240.17Ad–22(e)(4) and (e)(6).

[44] 15 U.S.C. 78q–1(b)(3)(F).

that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act.

As discussed in Section II.A above, backtesting deficiencies highlight when a Member's margin is insufficient to cover NSCC's credit exposure to that Member.[45] If a defaulted Member's margin is insufficient to satisfy losses caused by the closeout of that Member's positions, NSCC and its non-defaulting Members may be subject to losses. As summarized in Section II.B above, the proposed increase would have provided NSCC with additional resources, which would have resulted in a decrease in backtesting deficiencies and thus a reduction in credit exposure to its Members under the proposal.[46] Therefore, the Commission believes NSCC would improve the probability that the increased minimum margin amount it collects is sufficient to cover NSCC's credit exposure to those Members, particularly in instances where the defaulted Member's clearing activity abruptly increases following a period of low or no activity. This increase, in turn, could reduce the possibility that NSCC or its non-defaulting Members face losses from the close-out process.

Moreover, NSCC would continue to require that Members pay an amount equal to the minimum Required Fund Deposit amount in cash. Therefore, the proposal would enable NSCC to have available additional collateral that is easier for NSCC to access quickly to complete end of day settlement upon a Member's default, further reducing the risk of losses to NSCC or non-defaulting Members. Accordingly, the Commission believes the Proposed Rule Change would promote the safeguarding of securities and funds which are in the custody or control of NSCC or for which NSCC is responsible, consistent with Section 17A(b)(3)(F) of the Act.[47]

B. Consistency With Section 17A(b)(3)(I) of the Act

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Act.[48] This provision does not require the Commission to find that a proposed rule change represents the least anti-competitive means of achieving the goal.[49] Rather, it requires the Commission to balance the competitive considerations against other relevant policy goals of the Act.[50]

The Commission acknowledges that the impact of increased margin requirements will likely present higher costs to some Members with lower operating margins, lower cash reserves or higher costs of capital compared to other Members, which may weaken those Members' competitive positions relative to others. For example, certain smaller Members could be required to make and hold an additional deposit of up to $240,000 to the Clearing Fund, which would limit the smaller Member's ability to utilize that cash for other operating or investing purposes. Although some of NSCC's Members could experience a burden on competition because of these higher costs, the Commission concludes any burden to these Members is necessary and appropriate in furtherance of the policy goals under the Act[51] for the following reasons.

As discussed in Section II.A above, NSCC seeks to maintain sufficient resources (*i.e.,* margin) to cover its credit exposures to its Members fully with a high degree of confidence. Conversely, NSCC uses backtesting to determine when a Member's margin would have been insufficient to cover NSCC's credit exposure to that Member.[52] As previously discussed, the Impact Study Results show the proposed $250,000 minimum Required Fund Deposit would have decreased the number of backtesting deficiencies, thereby increasing the number of Members for which NSCC maintained sufficient coverage at a confidence level of at least 99%.[53] Therefore, the Proposed Rule Change would enable NSCC to better manage its credit exposure to its Members by ensuring it holds sufficient collateral to cover that exposure, thereby reducing the likelihood that NSCC or non-defaulting Members would incur losses resulting from a Member default.

Additionally, based on the information set forth in Section II.B above regarding the average ENC of the impacted Members,[54] the Commission believes that the vast majority of impacted Members likely would not experience a weakened competitive position compared to others as a result of the Proposed Rule Change. The average ENC data shows that almost all of the impacted Members would likely be able to satisfy the additional cash deposits needed to comply with the Proposed Rule Change with minimal impact to the Members' financials.[55]

Commenters have raised concerns regarding the Proposed Rule Change in light of its potential competitive impact on certain NSCC Members. Specifically, one commenter objects to the proposed increase to $250,000, stating that NSCC's current Rules are more than adequate to guard against risk at the small firm-level and that the increase would be purely a tax on the smallest, inactive and lowest risk firms.[56] Another commenter similarly objects to the proposed change stating the increase would disproportionately affect NSCC's smallest Members.[57] The Commission disagrees for the reasons discussed above, which indicate that the proposed increase would increase Members' Required Fund Deposits proportional to the risks posed by those Members.

Moreover, as discussed in Section II.A above, it is possible that, in certain circumstances, the current minimum Required Fund Deposit amount would

[45] *See supra* text accompanying note 15.

[46] *See supra* text accompanying notes 29–31.

[47] In addition to its arguments about the Proposed Rule Change, one commenter also asserts that NSCC's other recent efforts to increase capital or methodology-based margin requirements represent unfair discrimination against Members who deal in stocks trading in the OTC Markets, inconsistent with Section 17A(b)(3)(F) of the Act. *See* Alpine Letter, *supra* note 4, at 4–5. However, the Proposed Rule Change would not amend NSCC's capital or methodology-based margin requirements and is limited to the amendment of the minimum Required Fund Deposit amount. Therefore, the commenter's arguments pursuant to Section 17A(b)(3)(F) of the Act are outside the scope of this Proposed Rule Change. The commenter also argues that NSCC should instead eliminate risk by shortening the settlement cycle, rather than monetizing risk through increased margin requirements, such as under this Proposed Rule Change. *See* Alpine Letter, *supra* note 4, at 7–8. However, the Proposed Rule Change is limited to NSCC's minimum Required Fund Deposit amount in order to manage risk under the current settlement cycle. Therefore, the commenter's arguments related to shortening the settlement cycle are likewise outside the scope of this Proposed Rule Change.

[48] 15 U.S.C. 78q–1(b)(3)(I).

[49] *See* Bradford National Clearing Corp., 590 F.2d 1085, 1105 (D.C. Cir. 1978) (''Bradford'').

[50]

[51] 15 U.S.C. 78q–1(b)(3)(I). Specifically, as discussed in greater detail in Section III.C and III.D below, the Proposed Rule Change is necessary and appropriate to further the policy goals under Rule 17Ad–22(e)(4)(i) and (e)(6)(iii). 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(iii).

[52] *See supra* text accompanying notes 12–15.

[53] *See supra* text accompanying note 44. *See also, supra* text accompanying notes 29–31.

[54] *See supra* notes 34–37 and accompanying text. 98% of the impacted Members had, on average, an ENC above $2.5 million. Therefore, on average, 2% of the 46 impacted Members would maintain ENC below $2.5 million, which equals approximately one Member who could be required to hold 9.6% or more of its ENC on deposit at NSCC.

[55] NSCC represents it would continue to require that Members pay an amount equal to the minimum Required Fund Deposit amount in cash. *See* Notice of Filing, *supra* note 3, at 26590.

[56] *See* Wachtel Letter, *supra* note 5.

[57] The commenter concludes the Proposed Rule Change will ''undoubtedly put some members out of business.'' *See* Alpine Letter, *supra* note 4, at 5. Based on its consideration of the ENC data, as discussed above, the Commission does not agree with the commenter's argument. *See supra* text accompanying notes 51–52.

be insufficient to manage NSCC's credit exposure to participants between margin collections should, for example, the Member's clearing activity abruptly increase.[58] As summarized in Section II.B above, the Impact Study Results show that approximately 88% of the deficiencies that occurred on the days when Members maintained a Required Fund Deposit of less than $250,000 would have been eliminated, which indicates the proposed increase to $250,000 would have mitigated this risk.[59] Seven of the 28 Members that would have to provide some additional funding still held an average actual clearing fund deposit of above $250,000 during the Impact Study Period, ranging from approximately $315,000 to $1.7M. In other words, there would have been many days during the study period where those seven Members would not have to provide additional funding. Additionally, four of the remaining 21 Members that would have to provide some additional funding had an average ENC below $5 million, ranging from $834,000 to $4.8 million, during the Impact Study Period, while 11 of the 21 Members had an average ENC above $100 million during the same period.

For those 28 Members, the number of backtesting deficiencies ranged from zero and 22 based on the $10,000 minimum Required Fund Deposit compared to zero and five had the $250,000 minimum Required Fund Deposit been in place during the Impact Study Period. Moreover, the average number of backtesting deficiencies of the 28 Members would have decreased from 1.54 to 0.41 per Member had the $250,000 minimum Required Fund Deposit been in place during the study period. For the 14 Members impacted with backtesting deficiencies, the largest deficiency was $1.3 million and the smallest deficiency was $11,000 (out of 50 total deficiencies). Under the proposed minimum Required Fund Deposit of $250,000, there would only be six deficiencies across four members, with a maximum deficiency of $1.1 million and a minimum deficiency of $11,000.

One commenter further states that it would not object to an increase to a $100,000 Required Fund Deposit. However, as discussed in Section II.B above, an increase to $250,000 compared to $100,000 would have further reduced NSCC's credit exposure to its Members by eliminating ten additional backtesting deficiencies resulting in NSCC maintaining sufficient margin levels for two additional Members to above the 99% confidence interval. Therefore, the Commission concludes that any competitive burden to Members imposed by the Proposed Rule Change is necessary and appropriate in furtherance of the Act. Accordingly, the Commission finds that the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(I) of the Act.[60]

C. Consistency With Rule 17Ad–22(e)(4)(i)

Rule 17Ad–22(e)(4)(i) requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[61]

As described above in Section II.A, NSCC and its non-defaulting Members may be subject to losses should a defaulted Member's own Required Fund Deposit be insufficient to satisfy losses caused by the liquidation of that Member's portfolio. As summarized in Section II.B above,[62] the Impact Study Results show a $250,000 minimum Required Fund Deposit would have decreased the number of backtesting deficiencies, which would likely help NSCC better manage its credit exposure to each of its Members and credit exposures arising from its payment, clearing, and settlement processes.

Additionally, as discussed in Sections II.A and III.B above, NSCC would continue to require that Members pay an amount equal to the minimum Required Fund Deposit amount in cash,[63] which should enable NSCC to better maintain sufficient prefunded margin to mitigate potential future exposures to its Members. Therefore, requiring the proposed minimum $250,000 deposit to be made in cash should reduce the probability that NSCC or non-defaulting Members would incur losses resulting from a Member default. Accordingly, the Commission finds that NSCC's proposed increase to its minimum Required Fund Deposit would be consistent with Rule 17Ad–22(e)(4)(i).[64]

D. Consistency with Rule 17Ad–22(e)(6)(iii)

Rule 17Ad–22(e)(6)(iii) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to Members in the interval between the last margin collection and the close out of positions following a Member default.[65]

As summarized in Section III.B above,[66] NSCC employs daily backtesting to determine the adequacy of each Member's Required Fund Deposit paying particular attention to Members that have backtesting deficiencies below the 99% confidence target.[67] Such backtesting deficiencies highlight exposure that could subject NSCC to potential losses if a Member defaults.

Based on the Impact Study Results, which the Commission has reviewed and analyzed, approximately 22% of all backtesting deficiencies occur for those Members that maintain a Required Fund Deposit of less than $250,000, and approximately 88% of the deficiencies of those Members would have been eliminated during the Impact Study Period if the Required Fund Deposit were $250,000 or higher. By raising the minimum Required Fund Deposit amount to $250,000, the Commission believes the proposal could enable NSCC to decrease the number of backtesting deficiencies by Members, and thus decrease NSCC's exposure to such Members in the event of a Member default.

Additionally, based on the Commission's review and analysis of the Impact Study Results, the proposed $250,000 minimum Required Fund Deposit amount would have decreased the number of repeat backtesting deficiencies during the study period, which would have decreased the number of Members whose margin levels during the study period fell below the 99% confidence target.[68] Therefore, by raising the minimum Required Fund Deposit amount to $250,000, the Commission concludes that the increase in margin for NSCC Members that currently maintain a Required Fund Deposit of less than $250,000 would improve the probabilities that the

[58] *See supra* text accompanying notes 17–19.

[59] *See supra* text accompanying note 29.

[60] 15 U.S.C. 78q–1(b)(3)(I).

[61] 17 CFR 240.17Ad–22(e)(4)(i).

[62] *See supra* text accompanying notes 29–32.

[63] *See supra* note 52. *See also,* Notice of Filing, *supra* note 3, at 26590.

[64] 17 CFR 240.17Ad–22(e)(4)(i).

[65] 17 CFR 240.17Ad–22(e)(6)(iii).

[66] *See supra* text accompanying note 49.

[67] *See supra* text accompanying notes 16–18.

[68] *See supra* text accompanying notes 29–31. *See also, supra* text accompanying notes 17–19.

margin maintained by these Members is sufficient to cover NSCC's potential future exposure to Members in the interval between the last margin collection and the close out of positions following a Member default.

One commenter states the increase in margin is unwarranted because NSCC's Clearing Fund backtesting results from the Impact Study Results show that NSCC's current minimum Required Fund Deposit amount is sufficient to cover the risks presented by smaller Members.[69] As summarized in Section II.B above, the Impact Study Results show that the proposed $250,000 minimum requirement would have increased NSCC's twelve-month rolling Clearing Fund coverage by 0.14% to 99.41% resulting from decreased backtesting deficiencies, which the commenter argues does not warrant the proposed increase in the minimum Required Fund Deposit amount. However, as discussed above and based on the Commission's review, the Impact Study Results show that certain Members who maintained Required Fund Deposits of less than $250,000 experienced repeat backtesting deficiencies that resulted in those Members' individual margin levels falling below the 99% confidence level. In other words, these Members' individual margin levels were not sufficient 99% of the time during the study period. For that reason, the Commission is not persuaded by the commenter's argument.

Therefore, the Commission concludes NSCC's Proposed Rule Change should better ensure NSCC maintains sufficient margin to cover its potential future exposure to its Members in the interval between the last margin collection and the close out of positions following a Member default, thereby reducing the likelihood NSCC or non-defaulting Members would incur losses as a result. Accordingly, the Commission finds that NSCC's proposed increase to its minimum Required Fund Deposit would be consistent with Rule 17Ad–22(e)(6)(iii).[70]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by Partial Amendment No. 1, is consistent with the Exchange 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–2021–005 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–2021–005. 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 such 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–2021–005 and should be submitted on or before September 7, 2021.

V. Accelerated Approval of the Proposed Rule Change, as Modified by Partial Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[71] to approve the proposed rule change prior to the 30th day after the date of publication of Partial Amendment No. 1 in the **Federal Register**. As discussed above, in Partial Amendment No. 1, NSCC updates its proposed rule text to include a legend to indicate a delayed implementation date, specifically that the rule change would be implemented no later than 20 business days after Commission approval of the Proposed Rule Change. Partial Amendment No. 1 improves the efficiency of the filing process by obviating the need for NSCC to propose another change to its rules to resolve the omitted legend in the future, while not changing the purpose of or basis for the Proposed Rule Change.

For similar reasons as discussed above, the Commission finds that Partial Amendment No. 1 is consistent with the requirement that NSCC's rules be designed, in part, 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 under Section 17A(b)(3)(F) of the Exchange Act.[72] Accordingly, the Commission finds good cause for approving the Proposed Rule Change, as modified by Partial Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Exchange Act.[73]

VI. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[74] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[75] that Proposed Rule Change SR–NSCC–2021–005, as modified by Partial Amendment No. 1, be, and hereby is, *approved.*[76]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[77]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–17541 Filed 8–16–21; 8:45 am]

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[69] *See* Alpine Letter, *supra* note 4, at 5–6.

[70] 17 CFR 240.17Ad–22(e)(6)(iii).

[71] 15 U.S.C. 78s(b)(2).

[72] 15 U.S.C. 78q–1(b)(3)(F).

[73] 15 U.S.C. 78s(b)(2).

[74] 15 U.S.C. 78q–1.

[75] 15 U.S.C. 78s(b)(2).

[76] In approving the Proposed Rule Change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f). *See* discussion *supra* Section III.B.

[77] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92645; File No. SR–EMERALD–2021–23]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Emerald Fee Schedule To Adopt a Tiered-Pricing Structure for Certain Connectivity Fees

August 11, 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 30, 2021, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the ''Fee Schedule'') to amend certain connectivity fees.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt a tiered-pricing structure for the 10 gigabit (''Gb'') ultra-low latency (''ULL'') fiber connection available to Members [3] and non-Members. The Exchange believes a tiered-pricing structure will encourage Members and non-Members to be more efficient and economical when determining how to connect to the Exchange. This should also enable the Exchange to better monitor and provide access to the Exchange's network to ensure sufficient capacity and headroom in the System.[4]

10Gb ULL Tiered-Pricing Structure

The Exchange proposes to amend Sections (5)(a)–(b) of the Fee Schedule to provide for a tiered-pricing structure for 10Gb ULL connections for Members and non-Members. Currently, the Exchange assesses Members and non-Members a flat monthly fee of $10,000 per 10Gb ULL connection for access to the Exchange's primary and secondary facilities.

The Exchange now proposes to move from a flat monthly fee per connection to a tiered-pricing structure per connection under which the monthly fee would vary depending on the number of 10Gb ULL connections each Member or non-Member elects to purchase per exchange. Specifically, the Exchange proposes to decrease the fee for the first and second 10Gb ULL connections for each Member and non-Member from the current flat monthly fee of $10,000 to $9,000 per connection. To encourage more efficient connectivity usage, the Exchange proposes to increase the per connection fee for Members and non-Members that purchase more than two 10Gb ULL connections. Specifically, (i) the third and fourth 10Gb ULL connections for each Member or non-Member will increase from the current flat monthly fee of $10,000 to $11,000 per connection; and (ii) for the fifth 10Gb ULL connection, and for each 10Gb ULL connection for each Member and non-Member purchased thereafter, the fee will increase from the flat monthly fee of $10,000 to $13,000 per connection. The proposed 10Gb ULL tiered-pricing structure and fees are collectively referred to herein as the ''Proposed Access Fees.''

The Exchange will continue to assess monthly Member and non-Member network connectivity fees for connectivity to the primary and secondary facilities in any month the Member or non-Member is credentialed to use any of the MIAX Emerald APIs or market data feeds in the production environment. The Exchange proposes to pro-rate the fees when a Member or non-Member makes a change to the connectivity (by adding or deleting connections) with such pro-rated fees based on the number of trading days that the Member or non-Member has been credentialed to utilize any of the MIAX Emerald APIs or market data feeds in the production environment through such connection, divided by the total number of trading days in such month multiplied by the applicable monthly rate. The Exchange will continue to assess monthly Member and non-Member network connectivity fees for connectivity to the disaster recovery facility in each month during which the Member or non-Member has established connectivity with the disaster recovery facility.

Implementation Date

The proposed fee changes will become effective on August 1, 2021.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(4) of the Act [6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act [7] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(5).

competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees for services and products, in addition to order flow, to remain competitive with other exchanges. The Exchange believes that the proposed changes reflect this competitive environment.

The Exchange believes the proposal to move from a flat fee per month for the 10Gb ULL connection to a tiered-pricing structure is reasonable, equitably allocated and not unfairly discriminatory because the Exchange believes the proposed structure would encourage firms to be more economical and efficient in the number of connections they purchase. The Exchange believes this will enable the Exchange to better monitor and provide access to the Exchange's network to ensure sufficient capacity and headroom in the System.

The Exchange believes that the proposal to move to a tiered-pricing structure for its 10Gb ULL connections is reasonable, equitably allocated and not unfairly discriminatory because the majority of Members and non-Members that purchase 10Gb ULL connections will either save money or pay the same amount after the tiered-pricing structure is implemented. Based on a recently completed billing cycle, of the firms that purchased at least one 10Gb ULL connection, approximately 60% will see a proposed decrease in their monthly fees and approximately 40% will see a proposed increase in their monthly fees as a result of the proposed tiered-pricing structure versus the current flat monthly fee structure. To illustrate, firms that purchase only one 10Gb ULL connection per month currently pay the flat rate of $10,000 per month for that one 10Gb ULL connection. Pursuant to the proposed tiered-pricing structure, these firms will now pay $9,000 per month for that one 10Gb ULL connection, saving $1,000 per month or $12,000 annually. Further, firms that purchase two 10Gb ULL connections per month currently pay the flat rate of $20,000 per month ($10,000 × 2) for those two 10Gb ULL connections. Pursuant to the proposed tiered-pricing structure, these firms will now pay $18,000 per month ($9,000 × 2) for those two 10Gb ULL connections, saving $2,000 per month or $24,000 annually.

The Exchange also notes that, for firms that primarily route orders seeking best-execution, a limited number of connections are needed. Therefore, the connectivity costs will likely be lower for these firms based on the proposed tiered-pricing structure. The firms that engage in advanced trading strategies typically require multiple connections and, therefore, generate higher costs by utilizing more of the Exchange's resources. These firms will absorb the increased connectivity cost based on the proposed tiered-pricing structure, as shown by the 40% of firms that will likely see an increase in their monthly fees. Additionally, the firms that purchase a higher amount of 10Gb ULL connections tend to have specific business oriented market making and taking strategies, as opposed to firms simply engaging in best-execution order routing business.

The Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the requirements of the Act that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among market participants. The Exchange believes this high standard is especially important when an exchange imposes various access fees for market participants to access an exchange's marketplace. The Exchange deems connectivity to be access fees. It records these fees as part of its ''Access Fees'' revenue in its financial statements. The Exchange believes that it is important to demonstrate that these fees are based on its costs and reasonable business needs. The Exchange believes the Proposed Access Fees will allow the Exchange to offset expense the Exchange has and will incur, and that the Exchange is providing sufficient transparency (as described below) into how the Exchange determined to charge such fees. Accordingly, the Exchange is providing an analysis of its revenues, costs, and profitability associated with the Proposed Access Fees. This analysis includes information regarding its methodology for determining the costs and revenues associated with the Proposed Access Fees.

In order to determine the Exchange's costs to provide the access services associated with the Proposed Access Fees, the Exchange conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the Proposed Access Fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the access services. The sum of all such portions of expenses represents the total cost of the Exchange to provide the access services associated with the Proposed Access Fees. For the avoidance of doubt, no expense amount was allocated twice. The Exchange is also providing detailed information regarding the Exchange's cost allocation methodology—namely, information that explains the Exchange's rationale for determining that it was reasonable to allocate certain expenses described in this filing towards the cost to the Exchange to provide the access services associated with the Proposed Access Fees.

In order to determine the Exchange's projected revenue associated with the Proposed Access Fees, the Exchange analyzed the number of Members and non-Members currently utilizing the 10Gb ULL fiber connection, and, utilizing a recent monthly billing cycle representative of 2021 monthly revenue, extrapolated annualized revenue on a going-forward basis. The Exchange does not believe it is appropriate to factor into its analysis future revenue growth or decline into its projections for purposes of these calculations, given the uncertainty of such projections due to the continually changing access needs of market participants, discounts that can be achieved due to lower trading volume and vice versa, market participant consolidation, etc. Additionally, the Exchange similarly does not factor into its analysis future cost growth or decline. The Exchange is presenting its revenue and expense associated with the Proposed Access Fees in this filing in a manner that is consistent with how the Exchange presents its revenue and expense in its Audited Unconsolidated Financial Statements. The Exchange's most recent Audited Unconsolidated Financial Statement is for 2020. However, since the revenue and expense associated with the Proposed Access Fees were not in place in 2020 or for the first seven months of 2021, the Exchange believes its 2020 Audited Unconsolidated Financial Statement is not useful for analyzing the reasonableness of the total annual revenue and costs associated with the Proposed Access Fees. Accordingly, the Exchange believes it is more appropriate to analyze the Proposed Access Fees utilizing its 2021 revenue and costs, as described herein, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements. Based on this analysis, the Exchange believes that the Proposed Access Fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit when comparing the Exchange's total annual expense associated with providing the services associated with the Proposed Access

Fees versus the total projected annual revenue the Exchange will collect for providing those services.

* * * * *

On March 29, 2019, the Commission issued its Order Disapproving Proposed Rule Changes to Amend the Fee Schedule on the BOX Market LLC Options Facility to Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network (the ''BOX Order'').[8] On May 21, 2019, the Commission issued the Staff Guidance on SRO Rule Filings Relating to Fees.[9] Accordingly, the Exchange believes that the Proposed Access Fees are consistent with the Act because they (i) are reasonable, equitably allocated, not unfairly discriminatory, and not an undue burden on competition; (ii) comply with the BOX Order and the Guidance; (iii) are supported by evidence (including comprehensive revenue and cost data and analysis) that they are fair and reasonable because they will not result in excessive pricing or supra-competitive profit; and (iv) utilize a cost-based justification framework that is substantially similar to a framework previously used by the Exchange, and its affiliates Miami International Securities Exchange, LLC (''MIAX'') and MIAX PEARL, LLC (''MIAX Pearl''), to establish or increase other non-transaction fees.[10] Accordingly, the Exchange believes that the Proposed Access Fees are consistent with the Act.

* * * * *

As of July 29, 2021, the Exchange had a market share of only 3.90% of the U.S. equity options industry for the month of July 2021.[11] The Exchange is not aware of any evidence that a market share of approximately 3–4% provides the Exchange with anti-competitive pricing power. If the Exchange were to attempt to establish unreasonable pricing, then no market participant would join or connect, and existing market participants would disconnect.

Separately, the Exchange is not aware of any reason why market participants could not simply drop their access (or not initially access an exchange) if an exchange were to establish prices for its non-transaction fees that, in the determination of such market participant, did not make business or economic sense for such market participant to access such exchange. No options market participant is required by rule, regulation, or competitive forces to be a Member of the Exchange. As evidence of the fact that market participants can and do drop their access to exchanges based on non-transaction fee pricing, R2G Services LLC (''R2G'') filed a comment letter after BOX's proposed rule changes to increase its connectivity fees (SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04). The R2G Letter stated, ''[w]hen BOX instituted a $10,000/month price increase for connectivity; we had no choice but to terminate connectivity into them as well as terminate our market data relationship. The cost benefit analysis just didn't make any sense for us at those new levels.'' Similarly, the Exchange noted in a recent filing that once MIAX Emerald issued a notice that it was instituting MEI Port fees, among other non-transaction fees, one MIAX Emerald Member dropped its access to MIAX Emerald as a result of those fees.[12] Accordingly, these examples show that if an exchange sets too high of a fee for connectivity and/or other non-transaction fees for its relevant marketplace, market participants can choose to drop their access to such exchange.

In order to provide more detail and to quantify the Exchange's costs associated with providing access to the Exchange in general, the Exchange notes that there are material costs associated with providing the infrastructure and headcount to fully-support access to the Exchange. The Exchange incurs technology expense related to establishing and maintaining Information Security services, enhanced network monitoring and customer reporting, as well as Regulation SCI mandated processes, associated with its network technology. While some of the expense is fixed, much of the expense is not fixed, and thus increases as the services associated with the Proposed Access Fees increase. For example, new Members to the Exchange may require the purchase of additional hardware to support those Members as well as enhanced monitoring and reporting of customer performance that the Exchange and its affiliates provide. Further, as the total number Members increases, the Exchange and its affiliates may need to increase their data center footprint and consume more power, resulting in increased costs charged by their third-party data center provider. Accordingly, the cost to the Exchange and its affiliates to provide access to its Members is not fixed. The Exchange believes the Proposed Access Fees are reasonable in order to offset a portion of the costs to the Exchange associated with providing access to its network infrastructure.

The Exchange only has four primary sources of revenue: Transaction fees, access fees (which includes the Proposed Access Fees), regulatory fees, and market data fees. Accordingly, the Exchange must cover all of its expenses from these four primary sources of revenue.

The Exchange believes that the Proposed Access Fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit, when comparing the total annual expense that the Exchange projects to incur in connection with providing these access services versus the total annual revenue that the Exchange projects to collect in connection with services associated with the Proposed Access Fees. For 2021,[13] the total annual expense for providing the access services associated with the Proposed Access Fees is projected to be approximately $7.2 million. The approximately $7.2 million in projected total annual expense is comprised of the following, all of which are directly related to the access services associated with the Proposed Access Fees: (1) Third-party expense, relating to fees paid by the Exchange to third-parties for certain products and services; and (2) internal expense, relating to the internal costs of the Exchange to provide the services associated with the Proposed Access Fees.[14] As noted above, the Exchange believes it is more appropriate to analyze the Proposed Access Fees utilizing its 2021 revenue

[8] *See* Securities Exchange Act Release No. 85459 (March 29, 2019), 84 FR 13363 (April 4, 2019) (SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04).

[9] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees* (the ''Guidance'').

[10] See Securities Exchange Act Release Nos. 90981 (January 25, 2021), 86 FR 7582 (January 29, 2021) (SR–PEARL–2021–01) (proposal to increase connectivity fees); 90980 (January 25, 2021), 86 FR 7602 (January 29, 2021) (SR–MIAX–2021–02) (proposal to increase connectivity fees).

[11] *See* ''The market at a glance,'' available at *https://www.miaxoptions.com/* (last visited July 27, 2021).

[12] *See* Securities Exchange Act Release No. 91460 (April 2, 2021), 86 FR 18349 (April 8, 2021) (SR–EMERALD–2021–11) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Port Fees, Increase Certain Network Connectivity Fees, and Increase the Number of Additional Limited Service MIAX Emerald Express Interface Ports Available to Market Makers) (adopting tiered MEI Port fee structure ranging from $5,000 to $20,500 per month).

[13] The Exchange has not yet finalized its 2021 year end results.

[14] The percentage allocations used in this proposed rule change may differ from past filings from the Exchange or its affiliates due to, among other things, changes in expenses charged by third-parties, adjustments to internal resource allocations, and different system architecture of the Exchange as compared to its affiliates.

and costs, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements.[15] The $7.2 million in projected total annual expense is directly related to the access services associated with the Proposed Access Fees, and not any other product or service offered by the Exchange. It does not include general costs of operating matching systems and other trading technology, and no expense amount was allocated twice.

As discussed, the Exchange conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger (this includes over 150 separate and distinct expense items) to determine whether each such expense relates to the access services associated with the Proposed Access Fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports those services, and thus bears a relationship that is, ''in nature and closeness,'' directly related to those services. The sum of all such portions of expenses represents the total cost of the Exchange to provide access services associated with the Proposed Access Fees.

For 2021, total third-party expense, relating to fees paid by the Exchange to third-parties for certain products and services for the Exchange to be able to provide the access services associated with the Proposed Access Fees, is projected to be $1.7 million. This includes, but is not limited to, a portion of the fees paid to: (1) Equinix, for data center services, for the primary, secondary, and disaster recovery locations of the Exchange's trading system infrastructure; (2) Zayo Group Holdings, Inc. (''Zayo'') for network services (fiber and bandwidth products and services) linking the Exchange's and its affiliates' office locations in Princeton, New Jersey and Miami, Florida, to all data center locations; (3) Secure Financial Transaction Infrastructure (''SFTI''),[16] which supports connectivity and feeds for the entire U.S. options industry; (4) various other services providers (including Thompson Reuters, NYSE, Nasdaq, and Internap), which provide content, connectivity services, and infrastructure services for critical components of options connectivity and network services; and (5) various other hardware and software providers (including Dell and Cisco, which support the production environment in which Members connect to the network to trade, receive market data, etc.).

For clarity, only a portion of all fees paid to such third-parties is included in the third-party expense herein, and no expense amount is allocated twice. Accordingly, the Exchange does not allocate its entire information technology and communication costs to the access services associated with the Proposed Access Fees. Further, the Exchange notes that expenses associated with its affiliates, MIAX and MIAX Pearl, are accounted for separately and are not included within the scope of this filing.

The Exchange believes it is reasonable to allocate such third-party expense described above towards the total cost to the Exchange to provide the access services associated with the Proposed Access Fees. In particular, the Exchange believes it is reasonable to allocate the identified portion of the Equinix expense because Equinix operates the data centers (primary, secondary, and disaster recovery) that host the Exchange's network infrastructure. This includes, among other things, the necessary storage space, which continues to expand and increase in cost, power to operate the network infrastructure, and cooling apparatuses to ensure the Exchange's network infrastructure maintains stability. Without these services from Equinix, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the Equinix expense toward the cost of providing the access services associated with the Proposed Access Fees, only that portion which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 62% of the total applicable Equinix expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portion of the Zayo expense because Zayo provides the internet, fiber and bandwidth connections with respect to the network, linking the Exchange with its affiliates, MIAX Pearl and MIAX, as well as the data center and disaster recovery locations. As such, all of the trade data, including the billions of messages each day per exchange, flow through Zayo's infrastructure over the Exchange's network. Without these services from Zayo, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees. The Exchange did not allocate all of the Zayo expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to providing the Proposed Access Fees, approximately 62% of the total applicable Zayo expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portions of the SFTI expense and various other service providers' (including Thompson Reuters, NYSE, Nasdaq, and Internap) expense because those entities provide connectivity and feeds for the entire U.S. options industry, as well as the content, connectivity services, and infrastructure services for critical components of the network. Without these services from SFTI and various other service providers, the Exchange would not be able to operate and support the network and provide access to its Members and their customers. The Exchange did not allocate all of the SFTI and other service providers' expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 89% of the total applicable SFTI and other service providers' expense. The

[15] For example, the Exchange previously noted that all third-party expense described in its prior fee filing was contained in the information technology and communication costs line item under the section titled ''Operating Expenses Incurred Directly or Allocated From Parent,'' in the Exchange's 2019 Form 1 Amendment containing its financial statements for 2018. *See* Securities Exchange Act Release No. 87877 (December 31, 2019), 85 FR 738 (January 7, 2020) (SR–EMERALD–2019–39). Accordingly, the third-party expense described in this filing is attributed to the same line item for the Exchange's 2021 Form 1 Amendment, which will be filed in 2022.

[16] In fact, on October 22, 2019, the Exchange was notified by SFTI that it is again raising its fees charged to the Exchange by approximately 11%, without having to show that such fee change complies with the Act by being reasonable, equitably allocated, and not unfairly discriminatory. It is unfathomable to the Exchange that, given the critical nature of the infrastructure services provided by SFTI, that its fees are not required to be rule-filed with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively.

Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees.

The Exchange believes it is reasonable to allocate the identified portion of the other hardware and software provider expense because this includes costs for dedicated hardware licenses for switches and servers, as well as dedicated software licenses for security monitoring and reporting across the network. Without this hardware and software, the Exchange would not be able to operate and support the network and provide access to its Members and their customers. The Exchange did not allocate all of the hardware and software provider expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 51% of the total applicable hardware and software provider expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees.

For 2021, total projected internal expense, relating to the internal costs of the Exchange to provide the access services associated with the Proposed Access Fees, is projected to be approximately $5.5 million. This includes, but is not limited to, costs associated with: (1) Employee compensation and benefits for full-time employees that support the access services associated with the Proposed Access Fees, including staff in network operations, trading operations, development, system operations, business, as well as staff in general corporate departments (such as legal, regulatory, and finance) that support those employees and functions (including an increase as a result of the higher determinism project); (2) depreciation and amortization of hardware and software used to provide the access services associated with the Proposed Access Fees, including equipment, servers, cabling, purchased software and internally developed software used in the production environment to support the network for trading; and (3) occupancy costs for leased office space for staff that provide the access services associated with the Proposed Access Fees. The breakdown of these costs is more fully-described below. For clarity, only a portion of all such internal expenses are included in the internal expense herein, and no expense amount is allocated twice. Accordingly, the Exchange does not allocate its entire costs contained in those items to the access services associated with the Proposed Access Fees.

The Exchange believes it is reasonable to allocate such internal expense described above towards the total cost to the Exchange to provide the access services associated with the Proposed Access Fees. In particular, the Exchange's employee compensation and benefits expense relating to providing the access services associated with the Proposed Access Fees is projected to be approximately $3.2 million, which is only a portion of the approximately $9.7 million total projected expense for employee compensation and benefits. The Exchange believes it is reasonable to allocate the identified portion of such expense because this includes the time spent by employees of several departments, including Technology, Back Office, Systems Operations, Networking, Business Strategy Development (who create the business requirement documents that the Technology staff use to develop network features and enhancements), Trade Operations, Finance (who provide billing and accounting services relating to the network), and Legal (who provide legal services relating to the network, such as rule filings and various license agreements and other contracts). As part of the extensive cost review conducted by the Exchange, the Exchange reviewed the amount of time spent by each employee on matters relating to the provision of access services associated with the Proposed Access Fees. Without these employees, the Exchange would not be able to provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the employee compensation and benefits expense toward the cost of the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 33% of the total applicable employee compensation and benefits expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange's depreciation and amortization expense relating to providing the services associated with the Proposed Access Fees is projected to be $2 million, which is only a portion of the $3.1 million total projected expense for depreciation and amortization. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network and provide the access services associated with the Proposed Access Fees. Without this equipment, the Exchange would not be able to operate the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 63% of the total applicable depreciation and amortization expense, as these access services would not be possible without relying on such. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange's occupancy expense relating to providing the services associated with the Proposed Access Fees is projected to be approximately $0.3 million, which is only a portion of the $0.5 million total projected expense for occupancy. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense represents the portion of the Exchange's cost to rent and maintain a physical location for the Exchange's staff who operate and support the network, including providing the access services associated with the Proposed Access Fees. This amount consists primarily of rent for the Exchange's Princeton, NJ office, as well as various related costs, such as physical security, property management fees, property taxes, and utilities. The Exchange operates its Network Operations Center (''NOC'') and Security Operations Center (''SOC'') from its Princeton, New Jersey office location. A centralized office space is required to house the

staff that operates and supports the network. The Exchange currently has approximately 150 employees. Approximately two-thirds of the Exchange's staff are in the Technology department, and the majority of those staff have some role in the operation and performance of the access services associated with the Proposed Access Fees. Without this office space, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. Accordingly, the Exchange believes it is reasonable to allocate the identified portion of its occupancy expense because such amount represents the Exchange's actual cost to house the equipment and personnel who operate and support the Exchange's network infrastructure and the access services associated with the Proposed Access Fees. The Exchange did not allocate all of the occupancy expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to operating and supporting the network, approximately 53% of the total applicable occupancy expense. The Exchange believes this allocation is reasonable because it represents the Exchange's cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange notes that a material portion of its total overall expense is allocated to the provision of access services (including connectivity, ports, and trading permits). The Exchange believes this is reasonable and in line, as the Exchange operates a technology-based business that differentiates itself from its competitors based on its trading systems that rely on access to a high performance network, resulting in significant technology expense. Over two-thirds of Exchange staff are technology-related employees. The majority of the Exchange's expense is technology-based. As described above, the Exchange has only four primary sources of fees to recover their costs; thus, the Exchange believes it is reasonable to allocate a material portion of their total overall expense towards access fees.

Accordingly, based on the facts and circumstances presented, the Exchange believes that its provision of the access services associated with the Proposed Access Fees will not result in excessive pricing or supra-competitive profit. To illustrate, on a going-forward, fully-annualized basis, the Exchange projects that annualized revenue for providing the access services associated with the Proposed Access Fees would be approximately $14.6 million per annum, based on a recent billing cycle.[17] The Exchange projects that their annualized revenue for providing network connectivity services (all connectivity alternatives) to be approximately $14.63 million per annum. The Exchange projects that their annualized expense for providing network connectivity services (all connectivity alternatives) to be approximately $7.2 million per annum. Accordingly, on a fully-annualized basis, the Exchange believes its total projected revenue for the providing the access services associated with the Proposed Access Fees will not result in excessive pricing or supra-competitive profit, as the Exchange will make a profit margin of only approximately 51% inclusive of the Proposed Access Fees and all other connectivity alternatives ($14.63 million in total connectivity revenue minus $7.2 million in expense = $7.43 million in profit per annum). Additionally, this profit margin does not take into account the cost of capital expenditures (''CapEx'') the Exchange historically spent or is projected to spend each year on CapEx going forward.

For the avoidance of doubt, none of the expenses included herein relating to the access services associated with the Proposed Access Fees relate to the provision of any other services offered by the Exchange. Stated differently, no expense amount of the Exchange is allocated twice. The Exchange notes that expenses associated with the Exchange's affiliates, MIAX and MIAX Pearl, are accounted for separately and are not included within the scope of this filing. Stated differently, no expense amount of the Exchange is also allocated to MIAX or MIAX Pearl.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to allocate the respective percentages of each expense category described above towards the total cost to the Exchange of operating and supporting the network, including providing the access services associated with the Proposed Access Fees because the Exchange performed a line-by-line item analysis of all the expenses of the Exchange, and has determined the expenses that directly relate to providing access to the Exchange. Further, the Exchange notes that, without the specific third-party and internal items listed above, the Exchange would not be able to provide the access services associated with the Proposed Access Fees to its Members and their customers. Each of these expense items, including physical hardware, software, employee compensation and benefits, occupancy costs, and the depreciation and amortization of equipment, have been identified through a line-by-line item analysis to be integral to providing access services. The Proposed Access Fees are intended to recover the costs of providing access to its System. Accordingly, the Exchange believes that the Proposed Access Fees are fair and reasonable because they do not result in excessive pricing or supra-competitive profit, when comparing the actual costs to the Exchange versus the projected annual revenue from the Proposed Access Fees.

The Exchange believes the proposed changes are reasonable, equitably allocated and not unfairly discriminatory, and do not result in a ''supra-competitive''[18] profit. Of note, the Guidance defines ''supra-competitive profit'' as profits that exceed the profits that can be obtained in a competitive market.[19] With the proposed changes, the Exchange anticipates it will have a profit margin of approximately 51%, inclusive of the Proposed Access Fees and all other connectivity alternatives. Based on the 2020 Audited Financial Statements of competing options exchanges (since the 2021 Audited Financial Statements will likely not become publicly available until early July 2022, after the Exchange has submitted this filing), the Exchange's profit margin is similar to or below the operating profit margins of other competing exchanges. For example, Nasdaq ISE, LLC's (''ISE'') operating profit margin for all of 2020 was approximately 85%; Nasdaq PHLX LLC's (''PHLX'') operating profit margin for all of 2020 was approximately 49%; the Nasdaq Stock Market LLC's (''Nasdaq'') operating profit margin for all of 2020 was approximately 62%; NYSE Arca, Inc.'s (''Arca'') operating profit margin for all of 2020 was approximately 55%; NYSE American LLC's (''Amex'') operating profit margin for all of 2020 was approximately 59%; Cboe Exchange, Inc.'s (''Cboe'') operating profit margin for all of 2020 was approximately 74%; and Cboe BZX Exchange, Inc.'s (''BZX'') operating profit margin for all of 2020 was approximately 52%.

[17] The Exchange also projects approximately $2,800 in monthly revenue through 1Gb connections; however, the Exchange does not propose to adjust the fees for those connections at this time.

[18] *See supra* note 9.

[19] *See id.*

The Exchange believes that the Proposed Access Fees are reasonable, equitably allocated and not unfairly discriminatory because, for one 10Gb ULL connection, the Exchange provides each Member or non-Member access to all twelve matching engines on MIAX Emerald. Under the proposed pricing-structure, the Exchange will assess each Member or non-Member $9,000 for the first 10Gb ULL connection. For that $9,000 monthly fee, each Member or non-Member has access to all twelve matching engines each month. This results in a per matching engine connectivity cost of only $750 ($9,000 divided by 12). The Exchange believes its connectivity cost to be less than or similar to connectivity fees charged by competing options exchanges.[20]

The Exchange further believes its proposed fees are reasonable, equitably allocated and not unfairly discriminatory because the Exchange believes that it benefits overall competition in the marketplace to allow relatively new entrants like the Exchange and its affiliates, MIAX Pearl and MIAX, to propose fees that may help these new entrants recoup their substantial investment in building out costly infrastructure. The Exchange and its affiliates have historically set their fees purposefully low in order to attract business and market share, and the proposed tiered-pricing structure will help make the rates consistent with other exchanges while not raising costs for a majority of the Exchange's Members and non-Members.

The Guidance provides that in determining whether a proposed fee is constrained by significant competitive forces, the Commission will consider whether there are reasonable substitutes for the product or service that is the subject of a proposed fee. As described below, the Exchange believes substitute products and services are available to market participants, including, among other things, other options exchanges that market participants may connect to in lieu of the Exchange, indirect connectivity to the Exchange via a third-party reseller and/or trading of any options products, including proprietary products, in the Over-the-Counter (''OTC'') markets.

There is also no regulatory requirement that any market participant connect to any one options exchange, that any market participant connect at a particular connection speed or act in a particular capacity on the Exchange, or trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on the Exchange. A market participant may submit orders to the Exchange via a Sponsored User.[21] Indeed, the Exchange is unaware of any one options exchange whose membership includes every registered broker-dealer. Based on a recent analysis conducted by the Cboe Exchange, Inc. (''Cboe''), as of October 21, 2020, only three (3) of the broker-dealers, out of approximately 250 broker-dealers, were members of at least one exchange that lists options for trading and were members of all 16 options exchanges.[22] Additionally, the Cboe Fee Filing found that several broker-dealers were members of only a single exchange that lists options for trading and that the number of members at each exchange that trades options varies greatly.[23]

The Exchange notes that non-Member third-parties, such as Service Bureaus and Extranets, resell the Exchange's connectivity. This indirect connectivity is another viable alternative for market participants to trade on the Exchange without connecting directly to the Exchange (and thus not pay the Exchange's connectivity fees), which alternative is already being used by non-Members and further constrains the price that the Exchange is able to charge for connectivity and other access fees to its market. The Exchange notes that it could, but chooses not to, preclude market participants from reselling its connectivity. The Exchange also chooses not to adopt fees that would be assessed to third-party resellers on a per customer basis (*i.e.,* fees based on the number of firms that connect to the Exchange indirectly via the third-party). Indeed, the Exchange does not receive any connectivity revenue when connectivity is resold by a third-party, which often is resold to multiple customers, some of whom are agency broker-dealers that have numerous customers of their own.[24] In sum, the Exchange believes this creates and fosters a competitive environment and subjects the Exchange to competitive forces in pricing its connectivity and access fees. Particularly, in the event that a market participant views the Exchange's direct connectivity and access fees as more or less attractive than competing markets, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to the Exchange and connect instead to one or more of the other 15 options markets. Accordingly, the Exchange believes that the Proposed Access Fees are fair and reasonable and do not result in excessive pricing or supra-competitive profit.

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.

With respect to intra-market competition, the Exchange does not believe that the proposed rule change would place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete. As stated above, the Exchange does not believe its proposed pricing will impose a barrier to entry to smaller participants and notes that its proposed connectivity pricing structure for its 10Gb ULL connections is associated with relative usage of the various market participants. Further, the majority of firms that purchase 10Gb ULL connections may either save money or pay the same amount after the tiered-pricing structure is implemented. While total cost may be increased for market participants with larger capacity needs or for business/

[20] *See* The Nasdaq Stock Market LLC (''NASDAQ'') Rules, General 8: Connectivity, Section 1. Co-Location Services (charging a monthly fee of $10,000 per 10Gb fiber connection, $15,000 per 10Gb Ultra fiber connection, and $20,000 per 40Gb fiber connection, plus installation fees ranging from $1,000 to $1,500). The Exchange notes that the same connectivity fees described above for NASDAQ also apply to its affiliates, Nasdaq ISE, LLC and NASDAQ PHLX LLC. *See* Nasdaq ISE Rules, General 8: Connectivity and NASDAQ PHLX Rules, General 8: Connectivity (both incorporating by reference the fees in NASDAQ Rules, General 8: Connectivity). *See also* NYSE American LLC Options Fee Schedule, Section IV (charging the following connectivity fees: $6,000 per connection initial charge plus $5,000 monthly per 1Gb circuit connection; $15,000 per connection initial charge plus $22,000 monthly per 10Gb LX LCN circuit connection; and $15,000 per connection initial charge plus $22,000 monthly charge per 40Gb LCN circuit connection).

[21] *See* Exchange Rule 210. The Sponsored User is subject to the fees, if any, of the Sponsoring Member. The Exchange notes that the Sponsoring Member is not required to publicize, let alone justify or file with the Commission its fees, and as such could charge the Sponsored User any fees it deems appropriate, even if such fees would otherwise be considered supra-competitive, or otherwise potentially unreasonable or uncompetitive.

[22] *See* Securities Exchange Act Release No. 90333 (November 4, 2020), 85 FR 71666 (November 10, 2020) (SR–CBOE–2020–105) (the ''Cboe Fee Filing''). The Cboe Fee Filing cited to the October 2020 Active Broker Dealer Report, provided by the Commission's Office of Managing Executive, on October 8, 2020.

[23] *Id.*

[24] The Exchange notes that resellers are not required to publicize, let alone justify or file with the Commission their fees, and as such could charge the market participant any fees it deems appropriate (including connectivity fees higher than the Exchange's connectivity fees), even if such fees would otherwise be considered potentially unreasonable or uncompetitive fees.

technical preferences, such options provide far more capacity and are purchased by those that consume more resources from the network. Accordingly, the proposed tiered-pricing structure does not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation reflects the network resources consumed by the various usage of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pays the most, particularly since higher bandwidth consumption translates to higher costs to the Exchange.

The Exchange also does not believe that the proposed rule change will result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, options market participants are not forced to connect to all options exchanges. The Exchange operates in a highly competitive environment, and as discussed above, its ability to price access and connectivity is constrained by competition among exchanges and third parties. There are other options markets of which market participants may connect to trade options. There is also a possible range of alternative strategies, including routing to the exchange through another participant or market center or accessing the Exchange indirectly. For example, there are 15 other U.S. options exchanges, which the Exchange must consider in its pricing discipline in order to compete for market participants. In this competitive environment, market participants are free to choose which competing exchange or reseller to use to satisfy their business needs. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Accordingly, the Exchange does not believe its proposed fee changes impose 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[25] and Rule 19b–4(f)(2)[26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EMERALD–2021–23 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–EMERALD–2021–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EMERALD–2021–23 and should be submitted on or before September 7, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–17539 Filed 8–16–21; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92644; File No. SR–PEARL–2021–36]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule To Adopt a Tiered-Pricing Structure for Certain Connectivity Fees

August 11, 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 30, 2021, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Pearl Options Fee Schedule (the ''Fee Schedule'') to amend certain connectivity fees.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the MIAX Pearl Options Fee Schedule to adopt a tiered-pricing structure for the 10 gigabit (''Gb'') ultra-low latency (''ULL'') fiber connection available to Members [3] and non-Members. The Exchange believes a tiered-pricing structure will encourage Members and non-Members to be more efficient and economical when determining how to connect to the Exchange. This should also enable the Exchange to better monitor and provide access to the Exchange's network to ensure sufficient capacity and headroom in the System.[4]

10Gb ULL Tiered-Pricing Structure

The Exchange proposes to amend Sections 5)a)–b) of the Fee Schedule to provide for a tiered-pricing structure for 10Gb ULL connections for Members and non-Members. Currently, the Exchange assesses Members and non-Members a flat monthly fee of $10,000 per 10Gb ULL connection for access to the Exchange's primary and secondary facilities.

The Exchange now proposes to move from a flat monthly fee per connection to a tiered-pricing structure per connection under which the monthly fee would vary depending on the number of 10Gb ULL connections each Member or non-Member elects to purchase per exchange. Specifically, the Exchange proposes to decrease the fee for the first and second 10Gb ULL connections for each Member and non-Member from the current flat monthly fee of $10,000 to $9,000 per connection. To encourage more efficient connectivity usage, the Exchange proposes to increase the per connection fee for Members and non-Members that purchase more than two 10Gb ULL connections. Specifically, (i) the third and fourth 10Gb ULL connections for each Member or non-Member will increase from the current flat monthly fee of $10,000 to $11,000 per connection; and (ii) for the fifth 10Gb ULL connection, and for each 10Gb ULL connection for each Member and non-Member purchased thereafter, the fee will increase from the flat monthly fee of $10,000 to $13,000 per connection. The proposed 10Gb ULL tiered-pricing structure and fees are collectively referred to herein as the ''Proposed Access Fees.''

The Exchange will continue to assess monthly Member and non-Member network connectivity fees for connectivity to the primary and secondary facilities in any month the Member or non-Member is credentialed to use any of the MIAX Pearl APIs or market data feeds in the production environment. The Exchange proposes to pro-rate the fees when a Member or non-Member makes a change to the connectivity (by adding or deleting connections) with such pro-rated fees based on the number of trading days that the Member or non-Member has been credentialed to utilize any of the MIAX Pearl APIs or market data feeds in the production environment through such connection, divided by the total number of trading days in such month multiplied by the applicable monthly rate. The Exchange will continue to assess monthly Member and non-Member network connectivity fees for connectivity to the disaster recovery facility in each month during which the Member or non-Member has established connectivity with the disaster recovery facility.

The Exchange's MIAX Express Network Interconnect (''MENI'') can be configured to provide Members and non-Members of the Exchange network connectivity to the trading platforms, market data systems, test systems, and disaster recovery facilities of both the Exchange and its affiliate, Miami International Securities Exchange, LLC (''MIAX''), via a single, shared connection. Members and non-Members utilizing the MENI to connect to the trading platforms, market data systems, test systems, and disaster recovery facilities of the Exchange and MIAX via a single, shared connection will continue to only be assessed one monthly connectivity fee per connection, regardless of the trading platforms, market data systems, test systems, and disaster recovery facilities accessed via such connection.

Further, utilizing the proposed tiered-pricing structure, any firm that is a Member of both MIAX Pearl Options and MIAX and purchases three or four total 10Gb ULL connections, can effectively allocate one or two 10Gb ULL connections to the Exchange at the lowest rate and the other one or two 10Gb ULL connections to MIAX at the lowest rate, providing additional cost saving benefits to those Members and non-Members, due to the shared MENI infrastructure of MIAX Pearl and MIAX.

Implementation Date

The proposed fee changes will become effective on August 1, 2021.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(4) of the Act [6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act [7] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees for services and products, in addition to order flow, to remain competitive with other exchanges. The Exchange believes that the proposed changes reflect this competitive environment.

The Exchange believes the proposal to move from a flat fee per month for the 10Gb ULL connection to a tiered-pricing structure is reasonable, equitably allocated and not unfairly

[3] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(5).

discriminatory because the Exchange believes the proposed structure would encourage firms to be more economical and efficient in the number of connections they purchase. The Exchange believes this will enable the Exchange to better monitor and provide access to the Exchange's network to ensure sufficient capacity and headroom in the System.

The Exchange believes that the proposal to move to a tiered-pricing structure for its 10Gb ULL connections is reasonable, equitably allocated and not unfairly discriminatory because the majority of Members and non-Members that purchase 10Gb ULL connections will either save money or pay the same amount after the tiered-pricing structure is implemented. Based on a recently completed billing cycle, of the firms that purchased at least one 10Gb ULL connection, approximately 80% will see a proposed decrease in their monthly fees and approximately 20% will see a proposed increase in their monthly fees as a result of the proposed tiered-pricing structure versus the current flat monthly fee structure. To illustrate, firms that purchase only one 10Gb ULL connection per month currently pay the flat rate of $10,000 per month for that one 10Gb ULL connection. Pursuant to the proposed tiered-pricing structure, these firms will now pay $9,000 per month for that one 10Gb ULL connection, saving $1,000 per month or $12,000 annually. Further, firms that purchase two 10Gb ULL connections per month currently pay the flat rate of $20,000 per month ($10,000 × 2) for those two 10Gb ULL connections. Pursuant to the proposed tiered-pricing structure, these firms will now pay $18,000 per month ($9,000 × 2) for those two 10Gb ULL connections, saving $2,000 per month or $24,000 annually. Additionally, any firm that is a Member of both MIAX Pearl Options and MIAX and purchases four total 10Gb ULL connections, can effectively allocate two 10Gb ULL connections to MIAX Pearl Options at the $9,000 rate (saving $2,000 per month as compared to the flat fee) and two 10Gb ULL connections to MIAX at the $9,000 rate (saving an additional $2,000 per month as compared to the flat fee), for a total savings of $4,000 per month, or $48,000 annually over the current flat monthly fee structure, due to the shared MENI infrastructure of MIAX Pearl Options and MIAX.

The Exchange also notes that, for firms that primarily route orders seeking best-execution, a limited number of connections are needed. Therefore, the connectivity costs will likely be lower for these firms based on the proposed tiered-pricing structure. The firms that engage in advanced trading strategies typically require multiple connections and, therefore, generate higher costs by utilizing more of the Exchange's resources. These firms will absorb the increased connectivity cost based on the proposed tiered-pricing structure, as shown by the 20% of firms that will likely see an increase in their monthly fees. Additionally, the firms that purchase a higher amount of 10Gb ULL connections tend to have specific business oriented market making and taking strategies, as opposed to firms simply engaging in best-execution order routing business.

The Exchange also notes that, for firms that are primarily order routers seeking best-execution, a limited number of connections are needed. Therefore, the connectivity costs will likely be lower for these firms based on the proposed tiered-pricing structure. The firms that engage in advanced trading strategies typically require multiple connections and, therefore, generate higher costs by utilizing more of the Exchange's resources. These firms will absorb the increased connectivity cost based on the proposed tiered-pricing structure, as shown by the 20% of firms that will likely see an increase in their monthly fees. Additionally, the firms that purchase a higher amount of 10Gb ULL connections tend to have specific business oriented market making and taking strategies, as opposed to firms simply engaging in best-execution order routing business.

The Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the requirements of the Act that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among market participants. The Exchange believes this high standard is especially important when an exchange imposes various access fees for market participants to access an exchange's marketplace. The Exchange deems connectivity to be access fees. It records these fees as part of its ''Access Fees'' revenue in its financial statements. The Exchange believes that it is important to demonstrate that these fees are based on its costs and reasonable business needs. The Exchange believes the Proposed Access Fees will allow the Exchange to offset expense the Exchange has and will incur, and that the Exchange is providing sufficient transparency (as described below) into how the Exchange determined to charge such fees. Accordingly, the Exchange is providing an analysis of its revenues, costs, and profitability associated with the Proposed Access Fees. This analysis includes information regarding its methodology for determining the costs and revenues associated with the Proposed Access Fees.

In order to determine the Exchange's costs to provide the access services associated with the Proposed Access Fees, the Exchange conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the Proposed Access Fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the access services. The sum of all such portions of expenses represents the total cost of the Exchange to provide the access services associated with the Proposed Access Fees. For the avoidance of doubt, no expense amount was allocated twice. The Exchange is also providing detailed information regarding the Exchange's cost allocation methodology—namely, information that explains the Exchange's rationale for determining that it was reasonable to allocate certain expenses described in this filing towards the cost to the Exchange to provide the access services associated with the Proposed Access Fees.

In order to determine the Exchange's projected revenue associated with the Proposed Access Fees, the Exchange analyzed the number of Members and non-Members currently utilizing the 10Gb ULL fiber connection, and, utilizing a recent monthly billing cycle representative of 2021 monthly revenue, extrapolated annualized revenue on a going-forward basis. The Exchange does not believe it is appropriate to factor into its analysis future revenue growth or decline into its projections for purposes of these calculations, given the uncertainty of such projections due to the continually changing access needs of market participants, discounts that can be achieved due to lower trading volume and vice versa, market participant consolidation, etc. Additionally, the Exchange similarly does not factor into its analysis future cost growth or decline. The Exchange is presenting its revenue and expense associated with the Proposed Access Fees in this filing in a manner that is consistent with how the Exchange presents its revenue and expense in its Audited Unconsolidated Financial Statements. The Exchange's most recent Audited Unconsolidated Financial Statement is for 2020. However, since the revenue and expense associated with the Proposed Access Fees were not

in place in 2020 or for the first seven months of 2021, the Exchange believes its 2020 Audited Unconsolidated Financial Statement is not useful for analyzing the reasonableness of the total annual revenue and costs associated with the Proposed Access Fees. Accordingly, the Exchange believes it is more appropriate to analyze the Proposed Access Fees utilizing its 2021 revenue and costs, as described herein, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements. Based on this analysis, the Exchange believes that the Proposed Access Fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit when comparing the Exchange's total annual expense associated with providing the services associated with the Proposed Access Fees versus the total projected annual revenue the Exchange will collect for providing those services.

* * * * *

On March 29, 2019, the Commission issued its Order Disapproving Proposed Rule Changes to Amend the Fee Schedule on the BOX Market LLC Options Facility to Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network (the ''BOX Order'').[8] On May 21, 2019, the Commission issued the Staff Guidance on SRO Rule Filings Relating to Fees.[9] Accordingly, the Exchange believes that the Proposed Access Fees are consistent with the Act because they (i) are reasonable, equitably allocated, not unfairly discriminatory, and not an undue burden on competition; (ii) comply with the BOX Order and the Guidance; (iii) are supported by evidence (including comprehensive revenue and cost data and analysis) that they are fair and reasonable because they will not result in excessive pricing or supra-competitive profit; and (iv) utilize a cost-based justification framework that is substantially similar to a framework previously used by the Exchange, and its affiliates MIAX and MIAX Emerald, LLC (''MIAX Emerald''), to establish or increase other non-transaction fees.[10] Accordingly, the Exchange believes that the Proposed Access Fees are consistent with the Act.

* * * * *

As of July 29, 2021, the Exchange had a market share of only 4.52% of the U.S. equity options industry for the month of July 2021.[11] The Exchange is not aware of any evidence that a market share of approximately 4–5% provides the Exchange with anti-competitive pricing power. If the Exchange were to attempt to establish unreasonable pricing, then no market participant would join or connect, and existing market participants would disconnect.

Separately, the Exchange is not aware of any reason why market participants could not simply drop their access (or not initially access an exchange) if an exchange were to establish prices for its non-transaction fees that, in the determination of such market participant, did not make business or economic sense for such market participant to access such exchange. No options market participant is required by rule, regulation, or competitive forces to be a Member of the Exchange. As evidence of the fact that market participants can and do drop their access to exchanges based on non-transaction fee pricing, R2G Services LLC (''R2G'') filed a comment letter after BOX's proposed rule changes to increase its connectivity fees (SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04). The R2G Letter stated, ''[w]hen BOX instituted a $10,000/month price increase for connectivity; we had no choice but to terminate connectivity into them as well as terminate our market data relationship. The cost benefit analysis just didn't make any sense for us at those new levels.'' Similarly, the Exchange's affiliate, MIAX Emerald, noted in a recent filing that once MIAX Emerald issued a notice that it was instituting MEI Port fees, among other non-transaction fees, one MIAX Emerald Member dropped its access to MIAX Emerald as a result of those fees.[12] Accordingly, these examples show that if an exchange sets too high of a fee for connectivity and/or other non-transaction fees for its relevant marketplace, market participants can choose to drop their access to such exchange.

In order to provide more detail and to quantify the Exchange's costs associated with providing access to the Exchange in general, the Exchange notes that there are material costs associated with providing the infrastructure and headcount to fully-support access to the Exchange. The Exchange incurs technology expense related to establishing and maintaining Information Security services, enhanced network monitoring and customer reporting, as well as Regulation SCI mandated processes, associated with its network technology. While some of the expense is fixed, much of the expense is not fixed, and thus increases as the services associated with the Proposed Access Fees increase. For example, new Members to the Exchange may require the purchase of additional hardware to support those Members as well as enhanced monitoring and reporting of customer performance that the Exchange and its affiliates provide. Further, as the total number Members increases, the Exchange and its affiliates may need to increase their data center footprint and consume more power, resulting in increased costs charged by their third-party data center provider. Accordingly, the cost to the Exchange and its affiliates to provide access to its Members is not fixed. The Exchange believes the Proposed Access Fees are reasonable in order to offset a portion of the costs to the Exchange associated with providing access to its network infrastructure.

The Exchange only has four primary sources of revenue: Transaction fees, access fees (which includes the Proposed Access Fees), regulatory fees, and market data fees. Accordingly, the Exchange must cover all of its expenses from these four primary sources of revenue.

The Exchange believes that the Proposed Access Fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit, when comparing the total annual expense that the Exchange and MIAX project to incur in connection with providing these access services versus the total annual revenue that the Exchange projects to collect in connection with services associated with the Proposed Access Fees. For

[8] *See* Securities Exchange Act Release No. 85459 (March 29, 2019), 84 FR 13363 (April 4, 2019) (SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04).

[9] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees* (the ''Guidance'').

[10] See Securities Exchange Act Release Nos. 91460 (April 2, 2021), 86 FR 18349 (SR–EMERALD–2021–11) (proposal to adopt port fees, increase connectivity fees, and increase additional limited service ports); 91033 (February 1, 2021), 86 FR 8455 (February 5, 2021) (SR–EMERALD–2021–03) (proposal to adopt trading permit fees); 90980 (January 25, 2021), 86 FR 7602 (January 29, 2021) (SR–MIAX–2021–02) (proposal to increase connectivity fees).

[11] See ''The market at a glance,'' available at *https://www.miaxoptions.com/* (last visited July 29, 2021).

[12] *See* Securities Exchange Act Release No. 91460 (April 2, 2021), 86 FR 18349 (April 8, 2021) (SR–EMERALD–2021–11) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Port Fees, Increase Certain Network Connectivity Fees, and Increase the Number of Additional Limited Service MIAX Emerald Express Interface Ports Available to Market Makers) (adopting tiered MEI Port fee structure ranging from $5,000 to $20,500 per month).

2021,[13] the total annual expense for providing the access services associated with the Proposed Access Fees (that is, the shared network connectivity of the Exchange and MIAX, but excluding MIAX Emerald) is projected to be approximately $15.9 million. The approximately $15.9 million in projected total annual expense is comprised of the following, all of which are directly related to the access services associated with the Proposed Access Fees: (1) Third-party expense, relating to fees paid by the Exchange to third-parties for certain products and services; and (2) internal expense, relating to the internal costs of the Exchange and MIAX to provide the services associated with the Proposed Access Fees.[14] As noted above, the Exchange believes it is more appropriate to analyze the Proposed Access Fees utilizing its 2021 revenue and costs, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements.[15] The $15.9 million in projected total annual expense is directly related to the access services associated with the Proposed Access Fees, and not any other product or service offered by the Exchange. It does not include general costs of operating matching systems and other trading technology, and no expense amount was allocated twice.

As discussed, the Exchange conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger (this includes over 150 separate and distinct expense items) to determine whether each such expense relates to the access services associated with the Proposed Access Fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports those services, and thus bears a relationship that is, ''in nature and closeness,'' directly related to those services. The sum of all such portions of expenses represents the total cost of the Exchange to provide access services associated with the Proposed Access Fees.

For 2021, total third-party expense, relating to fees paid by the Exchange and MIAX to third-parties for certain products and services for the Exchange to be able to provide the access services associated with the Proposed Access Fees, is projected to be $3.9 million. This includes, but is not limited to, a portion of the fees paid to: (1) Equinix, for data center services, for the primary, secondary, and disaster recovery locations of the Exchange's trading system infrastructure; (2) Zayo Group Holdings, Inc. (''Zayo'') for network services (fiber and bandwidth products and services) linking the Exchange's and MIAX's office locations in Princeton, New Jersey and Miami, Florida, to all data center locations; (3) Secure Financial Transaction Infrastructure (''SFTI''),[16] which supports connectivity and feeds for the entire U.S. options industry; (4) various other services providers (including Thompson Reuters, NYSE, Nasdaq, and Internap), which provide content, connectivity services, and infrastructure services for critical components of options connectivity and network services; and (5) various other hardware and software providers (including Dell and Cisco, which support the production environment in which Members connect to the network to trade, receive market data, etc.).

For clarity, only a portion of all fees paid to such third-parties is included in the third-party expense herein, and no expense amount is allocated twice. Accordingly, the Exchange and MIAX do not allocate their entire information technology and communication costs to the access services associated with the Proposed Access Fees. Further, the Exchange notes that, with respect to the MIAX Pearl expenses included herein, those expenses only cover the MIAX Pearl options market; expenses associated with MIAX Pearl Equities are accounted for separately and are not included within the scope of this filing.

The Exchange believes it is reasonable to allocate such third-party expense described above towards the total cost to the Exchange and MIAX to provide the access services associated with the Proposed Access Fees. In particular, the Exchange believes it is reasonable to allocate the identified portion of the Equinix expense because Equinix operates the data centers (primary, secondary, and disaster recovery) that host the Exchange's network infrastructure. This includes, among other things, the necessary storage space, which continues to expand and increase in cost, power to operate the network infrastructure, and cooling apparatuses to ensure the Exchange's network infrastructure maintains stability. Without these services from Equinix, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the Equinix expense toward the cost of providing the access services associated with the Proposed Access Fees, only that portion which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 62% of the total applicable Equinix expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portion of the Zayo expense because Zayo provides the internet, fiber and bandwidth connections with respect to the network, linking the Exchange with its affiliates, MIAX and MIAX Emerald, as well as the data center and disaster recovery locations. As such, all of the trade data, including the billions of messages each day per exchange, flow through Zayo's infrastructure over the Exchange's network. Without these services from Zayo, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees. The Exchange did not allocate all of the Zayo expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to providing the Proposed Access Fees, approximately 62% of the total applicable Zayo expense. The Exchange believes this allocation is reasonable because it represents the Exchange's

[13] The Exchange has not yet finalized its 2021 year end results.

[14] The percentage allocations used in this proposed rule change may differ from past filings from the Exchange or its affiliates due to, among other things, changes in expenses charged by third-parties, adjustments to internal resource allocations, and different system architecture of the Exchange as compared to its affiliates.

[15] For example, the Exchange previously noted that all third-party expense described in its prior fee filing was contained in the information technology and communication costs line item under the section titled ''Operating Expenses Incurred Directly or Allocated From Parent,'' in the Exchange's 2019 Form 1 Amendment containing its financial statements for 2018. *See* 87876 (December 31, 2019), 85 FR 757 (January 7, 2020) (SR–PEARL–2019–36). Accordingly, the third-party expense described in this filing is attributed to the same line item for the Exchange's 2021 Form 1 Amendment, which will be filed in 2022.

[16] In fact, on October 22, 2019, the Exchange was notified by SFTI that it is again raising its fees charged to the Exchange by approximately 11%, without having to show that such fee change complies with the Act by being reasonable, equitably allocated, and not unfairly discriminatory. It is unfathomable to the Exchange that, given the critical nature of the infrastructure services provided by SFTI, that its fees are not required to be rule-filed with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively.

actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portions of the SFTI expense and various other service providers' (including Thompson Reuters, NYSE, Nasdaq, and Internap) expense because those entities provide connectivity and feeds for the entire U.S. options industry, as well as the content, connectivity services, and infrastructure services for critical components of the network. Without these services from SFTI and various other service providers, the Exchange would not be able to operate and support the network and provide access to its Members and their customers. The Exchange did not allocate all of the SFTI and other service providers' expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 75% of the total applicable SFTI and other service providers' expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees.

The Exchange believes it is reasonable to allocate the identified portion of the other hardware and software provider expense because this includes costs for dedicated hardware licenses for switches and servers, as well as dedicated software licenses for security monitoring and reporting across the network. Without this hardware and software, the Exchange would not be able to operate and support the network and provide access to its Members and their customers. The Exchange did not allocate all of the hardware and software provider expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 51% of the total applicable hardware and software provider expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees.

For 2021, total projected internal expense, relating to the internal costs of the Exchange and MIAX to provide the access services associated with the Proposed Access Fees, is projected to be approximately $12 million. This includes, but is not limited to, costs associated with: (1) Employee compensation and benefits for full-time employees that support the access services associated with the Proposed Access Fees, including staff in network operations, trading operations, development, system operations, business, as well as staff in general corporate departments (such as legal, regulatory, and finance) that support those employees and functions (including an increase as a result of the higher determinism project); (2) depreciation and amortization of hardware and software used to provide the access services associated with the Proposed Access Fees, including equipment, servers, cabling, purchased software and internally developed software used in the production environment to support the network for trading; and (3) occupancy costs for leased office space for staff that provide the access services associated with the Proposed Access Fees. The breakdown of these costs is more fully-described below. For clarity, only a portion of all such internal expenses are included in the internal expense herein, and no expense amount is allocated twice. Accordingly, the Exchange and MIAX do not allocate their entire costs contained in those items to the access services associated with the Proposed Access Fees.

The Exchange believes it is reasonable to allocate such internal expense described above towards the total cost to the Exchange to provide the access services associated with the Proposed Access Fees. In particular, the Exchange's and MIAX's combined employee compensation and benefits expense relating to providing the access services associated with the Proposed Access Fees is projected to be approximately $6.1 million, which is only a portion of the approximately $12.6 million (for MIAX) and $9.2 million (for MIAX Pearl) total projected expense for employee compensation and benefits. The Exchange believes it is reasonable to allocate the identified portion of such expense because this includes the time spent by employees of several departments, including Technology, Back Office, Systems Operations, Networking, Business Strategy Development (who create the business requirement documents that the Technology staff use to develop network features and enhancements), Trade Operations, Finance (who provide billing and accounting services relating to the network), and Legal (who provide legal services relating to the network, such as rule filings and various license agreements and other contracts). As part of the extensive cost review conducted by the Exchange, the Exchange reviewed the amount of time spent by each employee on matters relating to the provision of access services associated with the Proposed Access Fees. Without these employees, the Exchange would not be able to provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the employee compensation and benefits expense toward the cost of the access services associated with the Proposed Access Fees, only the portions which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately 28% of the total applicable employee compensation and benefits expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange's and MIAX's combined depreciation and amortization expense relating to providing the services associated with the Proposed Access Fees is projected to be $5.3 million, which is only a portion of the $4.8 million (for MIAX) and $2.9 million (for MIAX Pearl) total projected expense for depreciation and amortization. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network and provide the access services associated with the Proposed Access Fees. Without this equipment, the Exchange would not be able to operate the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. The Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to providing the access services associated with the Proposed Access Fees, approximately

70% of the total applicable depreciation and amortization expense, as these access services would not be possible without relying on such. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange's and MIAX's combined occupancy expense relating to providing the services associated with the Proposed Access Fees is projected to be approximately $0.6 million, which is only a portion of the $0.6 million (for MIAX) and $0.5 million (for MIAX Pearl) total projected expense for occupancy. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense represents the portion of the Exchange's cost to rent and maintain a physical location for the Exchange's staff who operate and support the network, including providing the access services associated with the Proposed Access Fees. This amount consists primarily of rent for the Exchange's Princeton, NJ office, as well as various related costs, such as physical security, property management fees, property taxes, and utilities. The Exchange operates its Network Operations Center (''NOC'') and Security Operations Center (''SOC'') from its Princeton, New Jersey office location. A centralized office space is required to house the staff that operates and supports the network. The Exchange currently has approximately 150 employees. Approximately two-thirds of the Exchange's staff are in the Technology department, and the majority of those staff have some role in the operation and performance of the access services associated with the Proposed Access Fees. Without this office space, the Exchange would not be able to operate and support the network and provide the access services associated with the Proposed Access Fees to its Members and their customers. Accordingly, the Exchange believes it is reasonable to allocate the identified portion of its occupancy expense because such amount represents the Exchange's actual cost to house the equipment and personnel who operate and support the Exchange's network infrastructure and the access services associated with the Proposed Access Fees. The Exchange did not allocate all of the occupancy expense toward the cost of providing the access services associated with the Proposed Access Fees, only the portion which the Exchange identified as being specifically mapped to operating and supporting the network, approximately 53% of the total applicable occupancy expense. The Exchange believes this allocation is reasonable because it represents the Exchange's cost to provide the access services associated with the Proposed Access Fees, and not any other service, as supported by its cost review.

The Exchange notes that a material portion of its total overall expense is allocated to the provision of access services (including connectivity, ports, and trading permits). The Exchange believes this is reasonable and in line, as the Exchange operates a technology-based business that differentiates itself from its competitors based on its trading systems that rely on access to a high performance network, resulting in significant technology expense. Over two-thirds of Exchange staff are technology-related employees. The majority of the Exchange's expense is technology-based. As described above, the Exchange and MIAX have only four primary sources of fees to recover their costs; thus, the Exchange and MIAX believe it is reasonable to allocate a material portion of their total overall expense towards access fees.

Accordingly, based on the facts and circumstances presented, the Exchange believes that its provision of the access services associated with the Proposed Access Fees will not result in excessive pricing or supra-competitive profit. To illustrate, on a going-forward, fully-annualized basis, the Exchange and MIAX project that annualized revenue for providing the access services associated with the Proposed Access Fees would be approximately $22 million per annum, based on a recent billing cycle.[17] The Exchange and MIAX project that their annualized revenue for providing network connectivity services (all connectivity alternatives) to be approximately $22.8 million per annum. The Exchange and MIAX project that their annualized expense for providing network connectivity services (all connectivity alternatives) to be approximately 15.9 million per annum. Accordingly, on a fully-annualized basis, the Exchange and MIAX believe their total projected revenue for the providing the access services associated with the Proposed Access Fees will not result in excessive pricing or supra-competitive profit, as the Exchange and MIAX will make a profit margin of only approximately 30% inclusive of the Proposed Access Fees and all other connectivity alternatives ($22.8 million in total connectivity revenue minus $15.9 million in expense = $6.9 million in profit per annum). Additionally, this profit margin does not take into account the cost of capital expenditures (''CapEx'') the Exchange and MIAX historically spent or are projected to spend each year on CapEx going forward.

For the avoidance of doubt, none of the expenses included herein relating to the access services associated with the Proposed Access Fees relate to the provision of any other services offered by the Exchange or MIAX. Stated differently, no expense amount of the Exchange is allocated twice. The Exchange notes that, with respect to the MIAX Pearl expenses included herein, those expenses only cover the MIAX Pearl options market; expenses associated with the MIAX Pearl equities market and the Exchange's affiliate, MIAX Emerald, are accounted for separately and are not included within the scope of this filing. Stated differently, no expense amount of the Exchange is also allocated to MIAX Pearl Equites or MIAX Emerald.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to allocate the respective percentages of each expense category described above towards the total cost to the Exchange of operating and supporting the network, including providing the access services associated with the Proposed Access Fees because the Exchange performed a line-by-line item analysis of all the expenses of the Exchange, and has determined the expenses that directly relate to providing access to the Exchange and MIAX. Further, the Exchange notes that, without the specific third-party and internal items listed above, the Exchange would not be able to provide the access services associated with the Proposed Access Fees to its Members and their customers. Each of these expense items, including physical hardware, software, employee compensation and benefits, occupancy costs, and the depreciation and amortization of equipment, have been identified through a line-by-line item analysis to be integral to providing access services. The Proposed Access Fees are intended to recover the Exchange's and MIAX's costs of providing access to their Systems. Accordingly, the Exchange believes that the Proposed Access Fees are fair and reasonable because they do not result in excessive pricing or supra-competitive profit, when comparing the actual costs to the Exchange versus the projected

[17] The Exchange and MIAX also project approximately $69,550 in monthly revenue through 1Gb connections; however, the Exchange and MIAX do not propose to adjust the fees for those connections at this time.

annual revenue from the Proposed Access Fees.

The Exchange believes the proposed changes are reasonable, equitably allocated and not unfairly discriminatory, and do not result in a ''supra-competitive'' [18] profit. Of note, the Guidance defines ''supra-competitive profit'' as profits that exceed the profits that can be obtained in a competitive market.[19] With the proposed changes, the Exchange and MIAX anticipate they will have a profit margin of approximately 30%, inclusive of the Proposed Access Fees and all other connectivity alternatives. Based on the 2020 Audited Financial Statements of competing options exchanges (since the 2021 Audited Financial Statements will likely not become publicly available until early July 2022, after the Exchange has submitted this filing), the Exchange's profit margin is well below the operating profit margins of other competing exchanges. For example, Nasdaq ISE, LLC's (''ISE'') operating profit margin for all of 2020 was approximately 85%; Nasdaq PHLX LLC's (''PHLX'') operating profit margin for all of 2020 was approximately 49%; the Nasdaq Stock Market LLC's (''Nasdaq'') operating profit margin for all of 2020 was approximately 62%; NYSE Arca, Inc.'s (''Arca'') operating profit margin for all of 2020 was approximately 55%; NYSE American LLC's (''Amex'') operating profit margin for all of 2020 was approximately 59%; Cboe Exchange, Inc.'s (''Cboe'') operating profit margin for all of 2020 was approximately 74%; and Cboe BZX Exchange, Inc.'s (''BZX'') operating profit margin for all of 2020 was approximately 52%.

The Exchange believes that the Proposed Access Fees are reasonable, equitably allocated and not unfairly discriminatory because, for one 10Gb ULL connection, the Exchange provides each Member or non-Member access to all twelve (12) matching engines on the Exchange. Under the proposed pricing-structure, the Exchange will assess each Member or non-Member $9,000 for the first 10Gb ULL connection. For that $9,000 monthly fee, each Member or non-Member has access to all twelve matching engines each month. This results in a per matching engine connectivity cost of only $750 ($9,000 divided by 12). The Exchange believes its connectivity cost to be less than or similar to connectivity fees charged by competing options exchanges.[20]

The Exchange further believes its proposed fees are reasonable, equitably allocated and not unfairly discriminatory because the Exchange believes that it benefits overall competition in the marketplace to allow relatively new entrants like the Exchange and its affiliates, MIAX and MIAX Emerald, to propose fees that may help these new entrants recoup their substantial investment in building out costly infrastructure. The Exchange and its affiliates have historically set their fees purposefully low in order to attract business and market share, and the proposed tiered-pricing structure will help make the rates consistent with other exchanges while not raising costs for a majority of the Exchange's Members and non-Members.

The Guidance provides that in determining whether a proposed fee is constrained by significant competitive forces, the Commission will consider whether there are reasonable substitutes for the product or service that is the subject of a proposed fee. As described below, the Exchange believes substitute products and services are available to market participants, including, among other things, other options exchanges that market participants may connect to in lieu of the Exchange, indirect connectivity to the Exchange via a third-party reseller and/or trading of any options products, including proprietary products, in the Over-the-Counter (''OTC'') markets.

There is also no regulatory requirement that any market participant connect to any one options exchange, that any market participant connect at a particular connection speed or act in a particular capacity on the Exchange, or trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on the Exchange. A market participant may submit orders to the Exchange via a Sponsored User.[21] Indeed, the Exchange is unaware of any one options exchange whose membership includes every registered broker-dealer. Based on a recent analysis conducted by the Cboe Exchange, Inc. (''Cboe''), as of October 21, 2020, only three (3) of the broker-dealers, out of approximately 250 broker-dealers, were members of at least one exchange that lists options for trading and were members of all 16 options exchanges.[22] Additionally, the Cboe Fee Filing found that several broker-dealers were members of only a single exchange that lists options for trading and that the number of members at each exchange that trades options varies greatly.[23]

The Exchange notes that non-Member third-parties, such as Service Bureaus and Extranets, resell the Exchange's connectivity. This indirect connectivity is another viable alternative for market participants to trade on the Exchange without connecting directly to the Exchange (and thus not pay the Exchange's connectivity fees), which alternative is already being used by non-Members and further constrains the price that the Exchange is able to charge for connectivity and other access fees to its market. The Exchange notes that it could, but chooses not to, preclude market participants from reselling its connectivity. The Exchange also chooses not to adopt fees that would be assessed to third-party resellers on a per customer basis (*i.e.,* fees based on the number of firms that connect to the Exchange indirectly via the third-party). Indeed, the Exchange does not receive any connectivity revenue when connectivity is resold by a third-party, which often is resold to multiple customers, some of whom are agency broker-dealers that have numerous customers of their own.[24] In sum, the

[18] *See supra* note 9.

[19] *See id.*

[20] *See* The Nasdaq Stock Market LLC (''NASDAQ'') Rules, General 8: Connectivity, Section 1. Co-Location Services (charging a monthly fee of $10,000 per 10Gb fiber connection, $15,000 per 10Gb Ultra fiber connection, and $20,000 per 40Gb fiber connection, plus installation fees ranging from $1,000 to $1,500). The Exchange notes that the same connectivity fees described above for NASDAQ also apply to its affiliates, Nasdaq ISE, LLC and NASDAQ PHLX LLC. *See* Nasdaq ISE Rules, General 8: Connectivity and NASDAQ PHLX Rules, General 8: Connectivity (both incorporating by reference the fees in NASDAQ Rules, General 8: Connectivity). *See also* NYSE American LLC Options Fee Schedule, Section IV (charging the following connectivity fees: $6,000 per connection initial charge plus $5,000 monthly per 1Gb circuit connection; $15,000 per connection initial charge plus $22,000 monthly per 10Gb LX LCN circuit connection; and $15,000 per connection initial charge plus $22,000 monthly charge per 40Gb LCN circuit connection).

[21] *See* Exchange Rule 210. The Sponsored User is subject to the fees, if any, of the Sponsoring Member. The Exchange notes that the Sponsoring Member is not required to publicize, let alone justify or file with the Commission its fees, and as such could charge the Sponsored User any fees it deems appropriate, even if such fees would otherwise be considered supra-competitive, or otherwise potentially unreasonable or uncompetitive.

[22] *See* Securities Exchange Act Release No. 90333 (November 4, 2020), 85 FR 71666 (November 10, 2020) (SR–CBOE–2020–105) (the ''Cboe Fee Filing''). The Cboe Fee Filing cited to the October 2020 Active Broker Dealer Report, provided by the Commission's Office of Managing Executive, on October 8, 2020.

[23] *Id.*

[24] The Exchange notes that resellers are not required to publicize, let alone justify or file with the Commission their fees, and as such could charge the market participant any fees it deems appropriate (including connectivity fees higher than the Exchange's connectivity fees), even if such fees

Exchange believes this creates and fosters a competitive environment and subjects the Exchange to competitive forces in pricing its connectivity and access fees. Particularly, in the event that a market participant views the Exchange's direct connectivity and access fees as more or less attractive than competing markets, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to the Exchange and connect instead to one or more of the other 15 options markets. Accordingly, the Exchange believes that the Proposed Access Fees are fair and reasonable and do not result in excessive pricing or supra-competitive profit.

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.

With respect to intra-market competition, the Exchange does not believe that the proposed rule change would place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete. As stated above, the Exchange does not believe its proposed pricing will impose a barrier to entry to smaller participants and notes that its proposed connectivity pricing structure for its 10Gb ULL connections is associated with relative usage of the various market participants. Further, the majority of firms that purchase 10Gb ULL connections may either save money or pay the same amount after the tiered-pricing structure is implemented. While total cost may be increased for market participants with larger capacity needs or for business/technical preferences, such options provide far more capacity and are purchased by those that consume more resources from the network. Accordingly, the proposed tiered-pricing structure does not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation reflects the network resources consumed by the various usage of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pays the most, particularly since higher bandwidth consumption translates to higher costs to the Exchange.

The Exchange also does not believe that the proposed rule change will result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, options market participants are not forced to connect to all options exchanges. The Exchange operates in a highly competitive environment, and as discussed above, its ability to price access and connectivity is constrained by competition among exchanges and third parties. There are other options markets of which market participants may connect to trade options. There is also a possible range of alternative strategies, including routing to the exchange through another participant or market center or accessing the Exchange indirectly. For example, there are 15 other U.S. options exchanges, which the Exchange must consider in its pricing discipline in order to compete for market participants. In this competitive environment, market participants are free to choose which competing exchange or reseller to use to satisfy their business needs. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Accordingly, the Exchange does not believe its proposed fee changes impose 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[25] and Rule 19b–4(f)(2)[26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2021–36 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–PEARL–2021–36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2021–36 and should be submitted on or before September 7, 2021.

would otherwise be considered potentially unreasonable or uncompetitive fees.

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

[27] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–17537 Filed 8–16–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Meeting of the Advisory Committee on Veterans Business Affairs

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the date, time, and agenda for a meeting of the Advisory Committee on Veterans Business Affairs (ACVBA).

DATES: Thursday, September 2, 2021, from 9:00 a.m. to 4:00 p.m. EDT.

ADDRESSES: Due to the coronavirus pandemic, the meeting will be held via Microsoft Teams using a call-in number listed below.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is strongly encouraged. To RSVP and confirm attendance, the general public should email *veteransbusiness@sba.gov* with subject line—''RSVP for 09/02/2021 ACVBA Public Meeting.'' To submit a written comment, individuals should email *veteransbusiness@sba.gov* with subject line—''Response for 09/2/2021 ACVBA Public Meeting'' no later than August 25, or contact Timothy Green, Deputy Associate Administrator, Office of Veterans Business Development (OVBD) at (202) 205–6773.

Comments received in advanced will be addressed as time allows during the public comment period. All other submitted comments will be included in the meeting record. During the live meeting, those who wish to comment will be able to do so during the public comment period.

To join the ACVBA meeting—September 2, 2021, 9:00 a.m.–4:00 p.m. ET Participants may join ACVBA meeting via computer *https://bit.ly/SeptACVBA* or phone. Call in (audio only): Dial In: 202–765–1264: Phone Conference ID: 583747012#.

Special accommodation requests should be directed to OVBD at (202) 205–6773 or *veteransbusiness@sba.gov.* All applicable documents will be posted on the ACVBA website prior to the meeting: *https://www.sba.gov/page/advisory-committee-veterans-business-affairs.* For more information on veteran-owned small business programs, please visit *www.sba.gov/ovbd.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs. The ACVBA is established pursuant to 15 U.S.C. 657(b) note and serves as an independent source of advice and policy. The purpose of this meeting is to discuss efforts that support veteran-owned small businesses, updates on past and current events, and the ACVBA's objectives for fiscal year 2021.

Dated: August 11, 2021.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2021–17589 Filed 8–16–21; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Meeting of the Interagency Task Force on Veterans Small Business Development

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the date, time, and agenda for the next meeting of the Interagency Task Force on Veterans Small Business Development (IATF).

DATES: Wednesday, September 1, 2021, from 1:00 p.m. to 3:15 p.m. EDT.

ADDRESSES: Due to the coronavirus pandemic, the meeting will be held via Microsoft Teams.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is strongly encouraged. To RSVP and confirm attendance, the general public should email *veteransbusiness@sba.gov* with subject line—''RSVP for September 1, 2021, IATF Public Meeting.'' To submit a written comment, individuals should email *veteransbusiness@sba.gov* with subject line—''Response for 09/01/2021 IATF Public Meeting'' no later than August 25, 2021, or contact Timothy Green, Deputy Associate Administrator, Office of Veterans Business Development (OVBD) at (202) 205–6773. Comments received in advanced will be addressed as time allows during the public comment period. All other submitted comments will be included in the meeting record. During the live meeting, those who wish to comment will be able to do so during the public comment period.

Participants can join the meeting via computer *https://bit.ly/SeptIATF* or phone. Call in (audio only): Dial In: 202–765–1264: Phone Conference ID: 324086449#.

Special accommodation requests should be directed to OVBD at (202) 205–6773 or *veteransbusiness@sba.gov.* All applicable documents will be posted on the IATF website prior to the meeting: *https://www.sba.gov/page/interagency-task-force-veterans-small-business-development.* For more information on veteran-owned small business programs, please visit *www.sba.gov/ovbd.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development (IAFT). The IATF is established pursuant to Executive Order 13540 to coordinate the efforts of Federal agencies to improve capital, business development opportunities, and pre-established federal contracting goals for small business concerns owned and controlled by veterans and service-disabled veterans.

The purpose of this meeting is to discuss efforts that support veteran-owned small businesses, updates on past and current events, and the IATF's objectives for fiscal year 2021.

Dated: August 11, 2021.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2021–17588 Filed 8–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 11502]

60-Day Notice of Proposed Information Collection: Congress-Bundestag Youth Exchange (CBYX) Evaluation

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to October 18, 2021.

ADDRESSES: You may submit comments by the following method:

• *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2021–0025'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, may be sent to Natalie Donahue, Chief of Evaluation, Bureau of Educational and Cultural Affairs, 2200 C Street NW, Washington, DC 20037 who may be reached at (202) 632–6193 or *ecaevaluation@state.gov.*

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* CBYX Evaluation.

• *OMB Control Number:* None.

• *Type of Request:* New collection.

• *Originating Office:* Bureau of Educational and Cultural Affairs (ECA).

• *Form Number:* No form.

• *Respondents:* American CBYX program alumni and American community members (host families, host schools, family and friends of alumni, community service hosts, host institution employee).

• *Estimated Number of Alumni Survey Respondents:* 8,400.

• *Estimated Number of Alumni Survey Responses:* 8,400.

• *Average Time per Alumni Survey:* 15 minutes.

• *Total Estimated Alumni Survey Burden Time:* 2,100 hours.

• *Estimated Number of Community Member Survey Respondents:* 840.

• *Estimated Number of Community Member Survey Responses:* 840.

• *Average Time per Community Member Survey:* 15 minutes.

• *Total Estimated Community Member Survey Burden Time:* 210 hours.

• *Estimated Number of Alumni In-depth Interview Respondents:* 44.

• *Average Time per Alumni In-depth Interview:* 60 minutes.

• *Total Estimated Alumni Burden Time:* 44 hours.

• *Estimated Number of Community Member In-depth Interview Respondents:* 36.

• *Average Time per Community Member In-depth Interview:* 60 minutes.

• *Total Estimated Community Member Burden Time:* 36 hours.

• *Estimated Number of Alumni Focus Group Respondents:* 96.

• *Average Time per Alumni Focus Group:* 60 minutes.

• *Total Estimated Alumni Focus Group Burden Time:* 96 hours.

• *Estimated Number of Community Member Focus Group Respondents:* 48.

• *Average Time per Community Member Focus Group:* 60 minutes.

• *Total Estimated Alumni Focus Group Burden Time:* 48 hours.

• *Total Estimated Burden Time:* 2,534 hours.

• *Frequency:* Once.

• *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Congress-Bundestag Youth Exchange (CBYX) program is managed by the Bureau of Educational and Cultural Affairs (ECA). The Congress-Bundestag Youth Exchange (CBYX) program was inaugurated in 1983 through a bilateral agreement between the U.S. Congress and the German Bundestag. The program supports the exchange of American and German young people to sustain and strengthen the American-German friendship. Currently, six U.S implementing partners are connected with German implementing partners to administer three components of the program: (1) Secondary School, (2) Vocational Studies, and (3) Young Professionals. Program activities in Germany for American participants are paid for and managed by the German government. Program activities for Germans that take place in the United States are paid for and managed by the U.S. government.

The purpose of this evaluation is to assess short- and long-term outcomes for American CBYX participants across the three components of the program, and the effect of the program on American communities which hosted German participants. The evaluation will provide evidence to ECA's CBYX Program Team, who will be the primary user of the evaluation results, to inform programmatic decision-making on the design and implementation of the CBYX program for future participants. In order to do so, ECA has contracted DCG Communications to conduct surveys, in-depth interviews, and focus groups with American alumni and with American community stakeholders.

Methodology

This evaluation will use a mixed methods design, integrating both quantitative and qualitative data collection and analyses. It will analyze the experiences of both American CBYX program alumni and community members using three principal methods: (1) An online survey, (2) in-depth interviews, and (3) focus groups. Due to ongoing COVID–19 restrictions and the geographic spread of potential respondents, all data collection will occur remotely (*i.e.,* via email, over the phone, etc.).

The survey and the qualitative research will happen simultaneously. Therefore, the Evaluation Team will be able to review the quantitative results as they come in, allowing for the interviewer and moderator to understand any potential contradictions in the findings and explore the data from the quantitative results in following interviews and focus groups. In addition, the interviewer and Evaluation Firm will learn from, and build off of, the insights gained from the first interviews to be able to gain even greater understanding, detail and nuance from each subsequent interview.

This evaluation will draw from alumni from the inaugural program in 1983 through the 2019 cohorts, from a universe of approximately 14,000 American alumni, as well other key stakeholders. ECA has set an ambitious target of 60 percent response rate for the survey portion of the evaluation, or approximately 8,400 alumni respondents. ECA will also survey key stakeholders. Based on estimates of response rates from similar previous ECA evaluations, the evaluation will survey 840 community member respondents.

The qualitative portion of the evaluation will include 80 in-depth interviews (44 with alumni and 36 with community members), 18 focus groups

(12 with alumni and 6 with community members). With up to eight participants per focus group, there will be roughly 144 focus group participants maximum in addition to the 80 interview participants, with a total of approximately 224 qualitative participants. Recruitment will ensure representation across cohort years as well as implementing partners and will attempt to have broad geographic coverage.

Nini J. Forino,

Acting Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–17627 Filed 8–16–21; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2021–0015]

Request for Written Comments Concerning China's Compliance With WTO Commitments

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for written comments.

SUMMARY: The interagency Trade Policy Staff Committee (TPSC) invites written comments to assist the Office of the United States Trade Representative (USTR) in the preparation of its annual report to Congress on China's compliance with the commitments made in connection with its accession to the World Trade Organization (WTO). Due to COVID–19, the TPSC will foster public participation via written questions and responses relating to the comments received by the TPSC rather than an in-person hearing. This notice includes the schedule for submission of comments, questions and responses.

DATES:

September 15, 2021 at 11:59 p.m. EDT: Deadline for submission of written comments.

September 29, 2021 at 11:59 p.m. EDT: Deadline for the TPSC to pose written questions on written comments.

October 13, 2021 at 11:59 p.m. EDT: Deadline for submission of commenters' responses to written questions from the TPSC.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov* (*REGS.GOV*). The instructions for submitting written submissions are in sections III and IV below. The docket number is USTR–2021–0015. For alternatives to online submissions, contact Spencer Smith at *Spencer.L.Smith2@ustr.eop.gov* or (202) 395–2974 before transmitting a submission and in advance of the relevant deadline.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written submissions, contact Spencer Smith at *Spencer.L.Smith2@ustr.eop.gov* or (202) 395–2974. Direct all other questions to Tsering Dhongthog, Deputy Assistant U.S. Trade Representative for China Affairs, at (202) 395–3900, or Arthur N. Tsao, Chief Counsel for China Enforcement, at (202) 395–3150.

SUPPLEMENTARY INFORMATION:

I. Background

China became a Member of the WTO on December 11, 2001. In accordance with section 421 of the U.S.-China Relations Act of 2000 (Pub. L. 106–286), USTR is required to submit, on or about December 11 of each year, a report to Congress on China's compliance with commitments made in connection with its accession to the WTO, including both multilateral commitments and any bilateral commitments made to the United States. In accordance with section 421, and to assist it in preparing this year's report, the TPSC is soliciting public comments. You can find last year's report on USTR's website at *https://ustr.gov/sites/default/files/files/reports/2020/2020USTRReportCongressChinaWTOCompliance.pdf.*

The terms of China's accession to the WTO are contained in the Protocol on the Accession of the People's Republic of China (including its annexes) (Protocol), the Report of the Working Party on the Accession of China (Working Party Report), and the WTO agreements. You can find the Protocol and Working Party Report on the WTO website at *http://docsonline.wto.org* (document symbols: WT/L/432, WT/MIN(01)/3, WT/MIN(01)/3/Add.1, WT/MIN(01)/3/Add.2).

II. Topics on Which the TPSC Seeks Information

The TPSC invites written comments on China's compliance with commitments made in connection with its accession to the WTO, including, but not limited to, commitments in the following areas:

A. Trading rights.

B. Import regulation (*e.g.,* tariffs, tariff-rate quotas, quotas, import licenses).

C. Export regulation.

D. Internal policies affecting trade (*e.g.,* subsidies, standards and technical regulations, sanitary and phytosanitary measures, government procurement, trade-related investment measures, taxes and charges levied on imports and exports).

E. Intellectual property rights (including intellectual property rights enforcement).

F. Services.

G. Rule of law issues (*e.g.,* transparency, judicial review, uniform administration of laws and regulations) and status of legal reform.

H. Other WTO commitments.

In addition, given the United States' view that China should be held accountable as a full participant in, and beneficiary of, the international trading system, USTR requests that commenters specifically identify unresolved compliance issues that warrant review and evaluation by USTR's China Enforcement Task Force.

III. Public Participation

Due to COVID–19, the TPSC will foster public participation via written submissions rather than an in-person hearing on China's compliance with the commitments made in connection with its accession to the WTO. In accordance with the schedule set out in the Dates section above, USTR invites written comments from the public. The TPSC will review the written comments and may pose written clarifying questions to the commenters. The TPSC will post the written questions on the public docket, other than questions that include properly designated business confidential information (BCI). USTR will send questions that include properly designated BCI to the relevant commenters by email and will not post these questions on the public docket. Written responses to questions that contain BCI must follow the procedures in section IV below.

IV. Requirements for Submissions

In order to be assured of consideration, we must receive your written comments in English by 11:59 p.m. EDT on September 15, 2021. USTR strongly encourages commenters to make online submissions, using *REGS.GOV.* On the first page, please identify the submission as 'China's WTO Compliance.'

To submit comments via *www.regulations.gov,* enter docket number USTR–2021–0015 on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled 'comment now'. For further information on using *REGS.GOV,* please consult the resources provided on the website by clicking on 'How to Use Regulations.gov' on the

bottom of the home page. USTR will not accept hand-delivered submissions.

REGS.GOV allows users to submit comments by filling in a 'type comment' field or by attaching a document using the 'upload file' field. USTR prefers that you submit comments in an attached document. If you attach a document, it is sufficient to type 'see attached' in the 'type comment' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the 'type comment' field.

Filers submitting comments that do not include BCI should name their file using the name of the person or entity submitting the comments. For any comments submitted electronically containing BCI, the file name of the business confidential version should begin with the characters 'BCI. Any page containing business confidential information must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page. Filers of submissions containing BCI also must submit a public version of their comments that we will place in the docket for public inspection. The file name of the public version should begin with the character 'P. The 'BCI' and 'P' should be followed by the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges that you file submissions through *REGS.GOV.* You must make any alternative arrangements with Spencer Smith at *Spencer.L.Smith2@ustr.eop.gov* or (202) 395–2974 before transmitting a submission and in advance of the relevant deadline.

USTR will post written submissions in the docket for public inspection, except BCI. You can view written submissions on *REGS.GOV* by entering docket number USTR–2021–0015 in the search field on the home page. General information concerning USTR is available at *www.ustr.gov.*

Edward Gresser,

Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.

[FR Doc. 2021–17606 Filed 8–16–21; 8:45 am]

BILLING CODE 3290–F1–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0068]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: FAA Entry Point Filing Form—International Registry

AGENCY: Federal Aviation Administration (FAA), Transportation (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 the 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 January 28, 2021. The information to be collected will be used to obtain a unique authorization code for transmitting information to the International Registry in Dublin, Ireland.

DATES: Written comments should be submitted by September 16, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Bonnie Lefko by email at: *bonnie.lefko@faa.gov;* phone: 405–954–7461.

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.

OMB Control Number: 2120–0697.

Title: FAA Entry Point Filing Form—International Registry.

Form Numbers: AC Form 8050–135.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 28, 2021 (86 FR 7453). The information collected is necessary to obtain an authorization code for transmission of information to the International Registry. The Convention on International Interest in Mobile Equipment, as modified by the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment (Cape Town Treaty), provides for the creation and sustainment of the International Registry. The International Registry is an electronic registry system that works in tandem with the current system operated by the FAA Civil Aviation Registry (Registry) for the United States.

Congress has designated the Registry as the exclusive United States Entry Point for transmissions to the International Registry. To transmit certain types of interests or prospective interests to the International Registry, interested parties must file a completed FAA Entry Point Filing Form—International Registry, AC Form 8050–135, with the Registry. Upon receipt of the completed form, the Registry issues a unique authorization code. The submission of the information in question is not an FAA requirement for aircraft registration. Its sole purpose is to create authorization for filing with the International Registry.

Respondents: Anyone wanting to file an interest on the International Registry. The FAA estimates up to 15,000 filed annually.

Frequency: As desired by parties with an interest in mobile equipment.

Estimated Average Burden per Response: 30 minutes.

Estimated Total Annual Burden: Based on FY2020 data of 14,360 filings, the estimated annual burden is 7,180 hours.

Issued in Oklahoma City, OK, on July 28, 2021.

Bonnie Lefko,

Program Analyst, FAA Civil Aviation Registry, Aircraft Registration Branch, AFB–711.

[FR Doc. 2021–17615 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2021–0037]

Surface Transportation Project Delivery Program; California High-Speed Rail Authority Audit Report

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Surface Transportation Project Delivery Program (STPD Program), often referred to as the ''NEPA Assignment Program,'' allows a State to assume FRA's responsibilities for Federal environmental review, consultation, and compliance under the National Environmental Policy Act (NEPA) and other Federal environmental laws, for railroad projects. In accordance with the July 23, 2019, memorandum of understanding (section 327 MOU) between FRA and the California High-speed Rail Authority (CHSRA), CHSRA assumed the environmental review process, in lieu of FRA. The STPD Program mandates annual audits by FRA for the first four years of a State's involvement in the STPD Program, ensuring CHSRA's compliance with program requirements. This notice finalizes FRA's findings of the first-year audit of CHSRA participation in the STPD Program.

FOR FURTHER INFORMATION CONTACT: Andréa Martin, Senior Environmental Protection Specialist, Office of Railroad Policy and Development (RPD), telephone: (202) 493–6201, email: *Andrea.Martin@dot.gov;* or Marlys Osterhues, Chief Environment and Project Engineering, RPD, telephone: (202) 493–0413, email: *Marlys.Osterhues@dot.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access: An electronic copy of this notice and all comments received may be downloaded from the docket page for FRA–2021–0037 at *www.regulations.gov.*

Background: FRA's annual audits are the primary mechanism to: (1) Oversee CHSRA's compliance with the STPD Program, the section 327 MOU, and applicable Federal laws and policies under NEPA; (2) determine CHSRA's attainment of the performance measures identified in part 10 of the section 327 MOU; and (3) collect information needed for the Secretary of Transportation's annual report to Congress pursuant to 23 U.S.C. 327(i).

FRA will conduct three more annual audits consistent with 23 U.S.C. 327(g) and part 11 of the section 327 MOU. FRA must present the results of each audit in a report and make the draft report available for public comment in the **Federal Register**, before finalizing.

FRA received one response during public comment period between April 21, 2021, and May 21, 2021. The comment, available in the docket, was submitted by the American Road and Transportation Builders Association and outlined its general support for the STPD Program. FRA considered this comment and determined that it did not require changes in the content of the draft report. This notice includes the final version of the audit report.

Surface Transportation Project Delivery Program Audit of the California High-Speed Rail Authority: December 8–10, 2020

Executive Summary

This report summarizes the results of FRA's first audit of the CHSRA's conduct of its environmental review responsibilities under 23 U.S.C. 327, in accordance with the section 327 MOU executed July 23, 2019, between CHSRA and FRA.

To carry out its audit responsibilities under the section 327 MOU, FRA formed a team (Audit Team) in April 2020. The Audit Team consisted of NEPA subject matter experts (SMEs) from FRA's environmental and project management divisions and the John A. Volpe National Transportation Systems Center. In addition, FRA designated a Senior Environmental Protection Specialist to serve as a NEPA Assignment Program liaison to CHSRA. The Audit Team reviewed certain NEPA project documentation completed by CHSRA during the first year of the NEPA Assignment Program, and CHSRA's self-assessment of its NEPA Assignment Program. In addition, the Audit Team reviewed documents related to quality assurance/quality control (QA/QC) and conducted interviews with relevant CHSRA staff between December 8 and 10, 2020.

The purpose of this report is to describe the results of the audit. Overall, the Audit Team found that CHSRA is carrying out the responsibilities it has assumed and complies with the provisions of the section 327 MOU.

Background

The STPD Program, codified at 23 U.S.C. 327, allows a State to assume FRA's environmental responsibilities for review, consultation, and compliance for railroad projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of the FRA. CHSRA published its application under the STPD Program on November 9, 2017 and made it available for public comment for 30 days. After considering public comments, CHSRA submitted its application to FRA on January 31, 2018. The application served as the basis for developing an MOU identifying the responsibilities and obligations that CHSRA would assume.

FRA published a notice of the draft MOU in the **Federal Register** on May 2, 2018, with a 30-day comment period to solicit the views of the public and Federal agencies. After the close of the comment period, FRA and CHSRA considered comments and proceeded to execute the MOU. On July 23, 2019, CHSRA assumed FRA's responsibilities under NEPA, and the responsibilities for NEPA-related Federal environmental laws described in the section 327 MOU.

Section 327(g) requires the Secretary to conduct annual audits during each of the first four years of State participation. Audits are the primary mechanism for FRA to oversee CHSRA's compliance with the provisions set forth in the section 327 MOU. FRA's annual audits, conducted pursuant to 23 U.S.C. 327(g), will be the primary mechanism to: (1) Determine the State's compliance with this MOU and applicable Federal laws and policies; (2) confirm the State's attainment of the performance measures identified in part 10 of the section 327 MOU; and (3) collect information needed for the Secretary of Transportation's annual report to Congress pursuant to 23 U.S.C. 327(i). FRA will conduct three more annual audits consistent with 23 U.S.C. 327(g) and part 11 of the section 327 MOU. FRA will present the results of each audit in a report and make the report available for public comment in the **Federal Register**, before finalizing.

Scope and Methodology

Consistent with the section 327 MOU, the Audit Team examined a sampling of CHSRA's NEPA project files; CHSRA's self-assessment report; and CHSRA policies, guidance, and manuals relating to NEPA responsibilities. The scope of the project file portion of the audit included a review of six reexaminations for previously approved Final Environmental Impact Statements (EISs) and one Final EIS/Record of Decision (ROD), representing all projects in process or initiated after the section 327 MOU's effective date through June 30, 2020. In conducting the audit, and to determine compliance with the section 327 MOU, the FRA Audit Team focused on objectives related to six NEPA

Assignment Program Elements: Program management, documentation and records management, QA/QC, training, performance measurement, and legal sufficiency. Each NEPA Assignment Program Element is described further below.

The Audit Team interviewed 11 CHSRA staff, in one of CHSRA's three regional offices and at its headquarters office. In addition, the Audit Team interviewed one staff member from the U.S. Environmental Protection Agency (EPA). The Audit Team invited CHSRA staff, middle management, counsel, and executive management to participate in the interview process to ensure representation of a diverse range of staff expertise, experience, and program responsibility.

The Audit Team compared the procedures outlined in CHSRA environmental manuals and policies to the information obtained during staff interviews and project file reviews to evaluate CHSRA's performance against its documented procedures. The Audit Team documented observations under the six NEPA Assignment Program Elements.

Audit Results

Overall, CHSRA has carried out the environmental responsibilities assumed through the section 327 MOU and the Audit Team found that CHSRA is complying with the section 327 MOU.

Program Management

Consistent with part 4 of the section 327 MOU, CHSRA has developed and implemented the updated Environmental Policies and Procedures Handbook, Environmental Compliance Program Manual, a QA/QC Plan, and the NEPA Assignment Training Course. CHSRA has also conducted the required self-assessment.

CHSRA has incorporated the NEPA Assignment Program into its overall project development process included in CHSRA's environmental manuals and policies. CHSRA has also created a NEPA assignment team in its headquarters office to support the new responsibilities under the NEPA Assignment Program. CHSRA staff at the headquarters office responsible for ensuring NEPA Assignment responsibilities are fulfilled review projects for compliance with assigned environmental laws and regulations independently from those responsible for developing the NEPA and related documentation, as required in part 3 of the section 327 MOU.

CHSRA environmental staff at the three regional offices coordinate their NEPA related project-work with headquarters staff through NEPA Coordinators. Prior to assuming responsibilities under the NEPA Assignment Program, CHSRA regional staff reported to their regional office. However, following assumption of NEPA responsibilities, CHSRA hired a NEPA Assignment Manager located in the headquarters office who is responsible for overseeing CHSRA's policies, manuals, guidance, and training under the NEPA Assignment Program. CHSRA also has assigned a team of attorneys to advise on the environmental review process. This team includes CHSRA in-house counsel as well as outside counsel who advise on issues relate to the assigned responsibilities.

Since the NEPA Assignment Program became effective, CHSRA staff noted that their relationship with resource agencies has not changed, and the overall environmental and consultation process has continued without significant change. FRA's Audit Team's review of project files supports this conclusion.

Documentation and Records Management

Between July 23, 2019, and June 30, 2020, CHSRA made 22 auditable NEPA actions. Employing judgmental sampling, the Audit Team reviewed seven NEPA project files, including six reexaminations of previously approved Final EISs and one combined Final EIS/ROD. These projects represented a sampling of CHSRA environmental review efforts in process or initiated after the section 327 MOU's effective date through June 30, 2020, covering a range of resource considerations and agency coordination requirements. The Audit Team found that CHSRA maintained a complete electronic record, including all NEPA-related documentation.

The Audit Team recognized several CHSRA efforts to ensure consistency of project documentation through CHSRA's use of an accessible file database. Interviews with CHSRA staff indicated that the regional staff consistently manage project files, including working files. In addition, CHSRA uses a software program to document public and resource agency comments, allowing CHSRA to track comments, responses, and resolution.

Quality Assurance/Quality Control

Under part 10.2.B of the section 327 MOU, CHSRA has agreed to carry out regular QA/QC activities to ensure the assumed responsibilities are conducted in accordance with applicable law and the section 327 MOU. The Audit Team noted that CHSRA has implemented a QA/QC program where environmental staff in the three regions coordinate with the NEPA assignment team in the headquarters office. The NEPA assignment team is responsible for reviewing all NEPA documentation and technical reports to ensure compliance. CHSRA staff also have access to SMEs for various environmental resources and regulations. During interviews, CHSRA noted that the NEPA assignment team acts independently to provide unbiased and objective reviews of work products. The Audit Team also found that regional staff understands how to implement the QA/QC process throughout the environmental review process.

During subsequent audits, the FRA Audit Team will require that supporting QA/QC documentation associated with project files be provided to FRA. This will allow the Audit Team to confirm QA/QC measures are being fully implemented for the projects under review. The Audit Team also recommends that CHSRA review a judgmental or random sampling of projects between FRA's annual audits to check compliance and identify potential improvements that can be made to the QA/QC process.

Training Program

CHSRA committed to implementing training necessary to meet its environmental obligations under the section 327 MOU. The training covers all topics related to CHSRA's responsibilities under NEPA assignment. Based on interviews and a review of training documentation and records, all CHSRA staff received the training in accordance with the training plan after the MOU was executed.

The FRA Audit Team recommends that CHSRA expand its training plan to include additional training opportunities. This training could include formal or informal training with State and Federal resource agencies in addition to the regularly scheduled agency coordination meetings.

Performance Measures

In accordance with part 10.1.1 of the section 327 MOU, FRA and CHSRA have established performance measures that CHSRA will seek to attain and that FRA will consider during FRA's audits.

CHSRA is still in the early stages of developing metrics to track attainment of performance measures outlined in the section 327 MOU. However, based on results of the audit review and interviews, the FRA Audit Team found that CHSRA is implementing the performances measures. CHSRA

environmental leadership staff indicated they will continue to implement the performances measures found in part 10 of the section 327 MOU.

Legal Sufficiency

CHSRA conducts a legal sufficiency review at various stages of the environmental review process, consistent with existing internal procedures. This review is generally conducted by outside counsel and CHSRA attorneys. CHSRA attorneys are responsible for making the final written determination regarding legal sufficiency of EISs prior to their publication.

Finalizing the Report

FRA published the draft version of this report in the **Federal Register** on April 21, 2021, (86 FR 20787), and made it available for public review and comment for 30 days in accordance with 23 U.S.C. 327(g). FRA received one response to the **Federal Register** notice during the public comment period for the draft report, from the American Road and Transportation Builders Association. This comment outlined its general support for the STPD Program. FRA considered this comment and determined that it did not require changes in the content of the draft report. This is FRA's final version of the audit report.

Issued in Washington, DC.

Amitabha Bose,

Deputy Administrator.

[FR Doc. 2021–17545 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0181]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: OASIS (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0181 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0181 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0181, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel OASIS is:

—*Intended Commercial Use of Vessel:* ''Luxury overnight charters in the Puget Sound and San Juan Islands using the 3 staterooms onboard''

—*Geographic Region Including Base of Operations:* ''Washington.'' (Base of Operations: Seattle, WA)

—*Vessel Length and Type:* 70′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0181 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0181 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17575 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0040]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: UNPLUGGED (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0040 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0040 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0040, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel UNPLUGGED is:

—*Intended Commercial Use of Vessel:* ''Charter''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Naples, FL)

—*Vessel Length and Type:* 48.8′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0040 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0040 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures

described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17583 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0030]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CORINA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0030 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0030 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0030, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel CORINA is:

—*Intended Commercial Use of Vessel:* ''Recreational charters.''
—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Miami, FL)
—*Vessel Length and Type:* 80′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0030 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0030 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17579 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0180]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: NINJALOVE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0180 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0180 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0180, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel NINJALOVE is:

—*Intended Commercial Use of Vessel:* ''6 passenger transportation.''
—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Newport Beach, CA)
—*Vessel Length and Type:* 26′ Motor (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2021–0180 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0180 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17576 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0189]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: HAPPINESS (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0189 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0189 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0189, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel HAPPINESS is:

—*Intended Commercial Use of Vessel:* ''Owner intends to offer high end limited charter for harbor cruises, sunset cruises, and limited overnight excursions in Southern California''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Marina Del Rey, CA)

—*Vessel Length and Type:* 62.7′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0189 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0189 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as

described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17572 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2021–0186]

Request for Comments on the Renewal of a Previously Approved Information Collection: Maritime Administration Annual Service Obligation Compliance Report

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collected will be used to determine if a graduate of the U.S. Merchant Marine Academy or a State maritime academy Student Incentive Payment (SIP) program graduate is complying with the terms of the service obligation. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before October 18, 2021.

ADDRESSES: You may submit comments [identified by Docket No. DOT–MARAD–2021–0186] through one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department 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.

Electronic Access and Filing

A copy of the notice may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this notice will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Danielle Bennett, 202–366–7618, Office of Maritime Labor and Training, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–458, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Maritime Administration Annual Service Obligation Compliance Report.

OMB Control Number: 2133–0509.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: 46 U.S.C. 51306 and 46 U.S.C. 51509 imposes a service obligation on every graduate of the U.S. Merchant Marine Academy and every State maritime academy Student Incentive Payment (SIP) program graduate. This mandatory service obligation is for the Federal financial assistance the graduate received as a student. The obligation consists of (1) maintaining a U.S. Coast Guard merchant mariner credentials with an officer endorsement; (2) serving as a commissioned officer in the U.S. Naval Reserve, the U.S. Coast Guard Reserve or any other reserve unit of an armed force of the United States following graduation from an academy (3) serving as a merchant marine officer on U.S.-flag vessels or as a commissioned officer on active duty in an armed or uniformed force of the United States, NOAA Corps, PHS Corps, or other MARAD approved service; and (4) report annually on their compliance with their service obligation after graduation.

Respondents: Graduates of the U.S. Merchant Marine Academy and State maritime academy Student Incentive Payment (SIP) program graduates.

Affected Public: Individuals and/or household.

Estimated Number of Respondents: 2,100.

Estimated Number of Responses: 2,100.

Estimated Hours per Response: 20 minutes.

Annual Estimated Total Annual Burden Hours: 700.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17590 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0177]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PHOENIX (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0177 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0177 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0177, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel PHOENIX is:

—*Intended Commercial Use of Vessel:* ''Private vessel charters, passengers only.''

—*Geographic Region Including Base of Operations:* ''New York, Massachusetts, and Florida.'' (Base of Operations: Montauk, NY)

—*Vessel Length and Type:* 71.2′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0177 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0177 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17582 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0183]

Request for Comments of a Previously Approved Information Collection: Quarterly Readiness of Strategic Seaport Facilities Reporting

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on May 21, 2021.

DATES: Comments must be submitted on or before September 16, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular

information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Matthew Butram, Maritime Administration, at *matthew.butram@dot.gov* or at 202–366–1976. You may send mail to Matthew Butram, Office of Sealift Support, Room W25–218, Mail Stop 1, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Quarterly Readiness of Strategic Seaport Facilities Reporting.

OMB Control Number: 2133–0548.

Type of Request: Renewal of a Previously Approved Information Collection.

Background: Pursuant to E.O. 12656 and 49 CFR 1.81, the Maritime Administration (MARAD) issues, for emergency planning and preparedness purposes, a Port Readiness Plan (PRP) to each strategic commercial seaport (port) designated by the Commander, Military Surface Deployment and Distribution Command (SDDC). The PRP identifies specific facilities that DoD may need to support the deployment of Armed Forced of the United States or other emergency needs to promote the national defense. The collection of quarterly information is necessary to validate the ports' ability to provide PRP-delineated facilities to the DOD within the PRP-delineated timeline.

Respondents: Strategic Commercial Seaports who have been designated by the Commander, SDDC and who have been issued a PRP by MARAD.

Affected Public: Strategic Commercial Seaports.

Total Estimated Number of Respondents: 17.

Frequency of Response: Quarterly.

Estimated Number of Responses: 4.

Estimated Time per Respondent: 1 Hour.

Total Estimated Number of Annual Burden Hours: 68.

Public Comments Invited: Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17595 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0185]

Request for Comments of a Previously Approved Information Collection: Procedures for Determining Vessel Services Categories for Purposes of the Cargo Preference Act

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on May 21, 2021.

DATES: Comments must be submitted on or before September 16, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Jim Mead, (202) 366–5723, Office of Cargo and Commercial Sealift, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Procedures for Determining Vessel Services Categories for Purposes of the Cargo Preference Act.

OMB Control Number: 2133–0540.

Type of Request: Renewal of a Previously Approved Information Collection.

Background: The purpose is to provide information to be used in the designation of service categories of individual vessels for purposes of compliance with the Cargo Preference Act under a Memorandum of Understanding entered into by the U.S. Department of Agriculture, U.S. Agency for International Development, and the Maritime Administration. MARAD will use the data submitted by vessel operators to create a list of Vessel Self-Designations and determine whether MARAD agrees or disagrees with a vessel owner's designation of a vessel.

Respondents: Owners or operators of U.S.-registered vessels and foreign-registered vessels.

Affected Public: Business Owners for Profits.

Total Estimated Number of Responses: 200.

Frequency of Collection: Annually.

Estimated time per Respondent: .25.

Total Estimated Number of Annual Burden Hours: 50.

Public Comments Invited: Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17591 Filed 8–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0031]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DEEP SIX (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry

no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0031 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0031 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0031, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel DEEP SIX is:

—*Intended Commercial Use of Vessel:* ''UPV, commercial passenger fishing vessel, Sportfishing 6-pack charter vessel.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Oxnard, CA)

—*Vessel Length and Type:* 28′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0031 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0031 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17580 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0190]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: STORYTELLER (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire.

A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0190 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0190 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0190, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel STORYTELLER is:

—*Intended Commercial Use of Vessel:* ''Sailing school falling under OUPV rules and regulations.''

—*Geographic Region Including Base of Operations:* ''South Carolina.'' (Base of Operations: Myrtle Beach, SC)

—*Vessel Length and Type:* 45.44′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0190 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0190 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17571 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0174]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MISS DIVA (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this

action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0174 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0174 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0174, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel MISS DIVA is:

—*Intended Commercial Use of Vessel:* ''commercial passenger transportation—carry passengers only.''

—*Geographic Region Including Base of Operations:* ''Washington, Oregon, and California.'' (Base of Operations: Alameda, CA)

—*Vessel Length and Type:* 38.1′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2021–0174 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0174 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17577 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0043]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: WAY POINT (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this

action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0043 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0043 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0043, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel WAY POINT is:

—*Intended Commercial Use of Vessel:* ''Private vessel charters, passengers only.''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding waters in New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska).'' (Base of Operations: San Diego, CA)

—*Vessel Length and Type:* 42′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2021–0043 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0043 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17584 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0187]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LEGESEA (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations

for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0187 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0187 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0187, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LEGESEA is:

—*Intended Commercial Use of Vessel:* ''The vessel will be used for passenger charters.''

—*Geographic Region Including Base of Operations:* ''Georgia, Florida, Puerto Rico, U.S. Virgin Islands, South Carolina, North Carolina, Virginia, Texas.'' (Base of Operations: Boston, MA)

—*Vessel Length and Type:* 40′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0187 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0187 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17574 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0036]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PELORUS (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry

no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0036 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0036 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0036, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel PELORUS is:

—*Intended commercial Use of Vessel:* ''Intended commercial use of the vessel used as an owner-operated and licensed six-pack day charter for local sailing excursions.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Monterey, CA)

—*Vessel Length and Type:* 40′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0036 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0036 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17581 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0188]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KAIROS (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire.

A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0188 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0188 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0188, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel KAIROS is:

—*Intended Commercial Use of Vessel:* ''Day charter and sailing instruction.''
—*Geographic Region Including Base of Operations:* ''Maryland, South Carolina, Florida and Maine.'' (Base of Operations: Wilmington, DE)
—*Vessel Length and Type:* 48′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2021–0188 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0188 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17573 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0029]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: WAY POINT 7 SATURDAYS (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire.

A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0029 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0029 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0170, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel 7 SATURDAYS is:

—*Intended Commercial Use of Vessel:* ''Taking passengers for the purpose of sportfishing.''

—*Geographic Region Including Base of Operations:* ''Maryland, Virginia, and Florida'' (Base of Operations: Chincoteague, VA)

—*Vessel Length and Type:* 35′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0029 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0029 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov* . Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17585 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0038]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: TRAVEL WIDE (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this

action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0038 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0038 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0038, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel TRAVEL WIDE is:

—*Intended Commercial Use of Vessel:* ''Charter of up to six passengers for a few hours sail.''
—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: St. Petersburg, FL)
—*Vessel Length and Type:* 36′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0038 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0038 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17578 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0175]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: HO'OMAHA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the

requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 16, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0175 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0175 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0175, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel HO'OMAHA is:

—*Intended Commercial Use of Vessel:* ''Charter fishing.''
—*Geographic Region Including Base of Operations:* ''New Hampshire and Massachusetts.'' (Base of Operations: Essex, MA)
—*Vessel Length and Type:* 22′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0175 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0175 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–17586 Filed 8–16–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.:

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

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action

On July 28, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. AL-SHABAN, Hasan (a.k.a. ALSHABAN, Hasan Suliman), Manbij, Syria; Sahinbey, Gaziantep, Turkey; DOB 07 Jan 1987; nationality Syria; Gender Male; Passport 02812L004397 (Syria); Identification Number 02120304806 (Syria); alt. Identification Number N006695928 (Syria); alt. Identification Number 99071138750 (Turkey) (individual) [SDGT].

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AL–QA'IDA, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. FAYZIMATOV, Farrukh Furkatovitch (a.k.a. AL-SHAMI, Faruk; a.k.a. ASH-SHAMI, Faruk; a.k.a. FAYZIMATOV, Faruk Furkatovich; a.k.a. SHAMI, Faruk; a.k.a. SHAMI, Faruq (Cyrillic: ШАМИ, Фарук)), Idlib, Syria; DOB 02 Mar 1996; citizen Tajikistan; Gender Male; Digital Currency Address—XBT 17a5bpKvEp1j1Trs4qTbcNZrby53 JbaS9C (individual) [SDGT].

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, HAY'ET TAHRIR AL-SHAM, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: July 28, 2021.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–17599 Filed 8–16–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Assistant Director for Regulatory Affairs, tel. 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On July 30, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. CALLEJAS VALCARCE, Oscar Alejandro, Goycuria #119, 10 Octubre, Havana, Cuba; DOB 19 Sep 1957; POB Havana, Cuba; nationality Cuba; Gender Male; Passport A006951 (Cuba) expires 18 Jul 2027; National ID No. 57091910348 (Cuba); Director, Policia Nacional Revolucionaria (individual) [GLOMAG] (Linked To: POLICIA NACIONAL REVOLUCIONARIA).

Designated pursuant to section 1(a)(iii)(B) of Executive Order 13818 of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption'' (E.O. 13818) for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, the POLICIA NACIONAL REVOLUCIONARIA, a person whose property and interests in property are blocked pursuant to the Order.

2. SIERRA ARIAS, Eddy Manuel, Calle 206A, No. 2119B, Entre 21 y 23, Atabey, Playa, Havana, Cuba; DOB 03 Sep 1971; POB Holguin, Cuba; nationality Cuba; Gender Male; Passport A008237 (Cuba) expires 20 Apr 2027; National ID No. 71090325982 (Cuba); Deputy Director, Policia Nacional Revolucionaria (individual) [GLOMAG] (Linked To: POLICIA NACIONAL REVOLUCIONARIA).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, the POLICIA NACIONAL REVOLUCIONARIA, a person whose property and interests in property are blocked pursuant to the Order.

Entity

1. POLICIA NACIONAL REVOLUCIONARIA, Manzana que ocupan las calles Cuba, Tacon y Chacon, La Habana Vieja, Havana, Cuba; Target Type Government Entity [GLOMAG] (Linked To: MINISTRY OF INTERIOR).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, directly or indirectly, the MINISTRY OF INTERIOR, a person whose property and interests in property are blocked pursuant to the Order.

Dated: July 30, 2021.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–17598 Filed 8–16–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506–A and Form 4506–B

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 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. Currently, the IRS is soliciting comments concerning the burden associated with Form 4506–A, *Request for Public Inspection or Copy of Exempt or Political Organization IRS Form* and 4506–B, *Request for a Copy of Exempt Organization IRS Application or Letter.*

DATES: Written comments should be received on or before October 18, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Paul Adams, (737) 800–6149 or Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *paul.d.adams@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Public Inspection or Copy of Exempt or Political Organization IRS Form (Form 4506–A) and Request for a Copy of Exempt Organization IRS Application or Letter (Form 4506–B).

OMB Number: 1545–0495.

Form Number: 4506–A and 4506–B.

Abstract: Internal Revenue Code section 6104 states that if an organization described in section 501(c) or (d) is exempt from taxation under section 501(a) for any taxable year, the application for exemption is open for public inspection. This includes all supporting statements, any letter or other documents issued by the IRS concerning the application, and certain annual returns of the organization. Form 4506–A, Request for Public Inspection or Copy of Exempt or Political Organization IRS Form and Form 4506–B, Request for a Copy of Exempt Organization IRS Application or Letter, is used to request public inspection or a copy of these forms.

Current Actions: There are no changes in the paperwork burden approved under 1545–0495.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, businesses or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 58 min.

Estimated Total Annual Burden Hours: 19,440.

The following paragraph applies to all 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 if 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.

Approved: August 11, 2020.

Paul Adams,

Senior Tax Analyst.

[FR Doc. 2021–17568 Filed 8–16–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that the Advisory Committee on Former Prisoners of War (Committee) will conduct a virtual meeting September 22–23, 2021. The meeting sessions will begin and end as shown below:

Date	Time	Location	Open session
September 22, 2021	9:00a.m.–3:00p.m. (EDT)	Microsoft TEAMS Link and Call-in Information Below	Yes.
September 23, 2021	9:00a.m.–3:00p.m. (EDT)	Microsoft TEAMS Link and Call-in Information Below	Yes.

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under title 38 U.S.C., for Veterans who are Former Prisoners of War (FPOW), and to make recommendations on the needs of such Veterans for compensation, health care, rehabilitation, and memorial benefits.

The agenda will include updates from the Veterans Health Administration, the Veterans Benefits Administration, National Cemetery Administration, and VA Staff Offices, as well as briefings on other issues impacting FPOW Veterans and their families.

No time will be allocated at this meeting for receiving oral presentations from the public. Any member of the public may also submit a 1–2-page commentary for the Committee's review. Any member of the public seeking additional information should contact Mr. Julian Wright, Designated Federal Officer, Department of Veterans Affairs, Advisory Committee on Former Prisoners of War at *Julian.Wright2@va.gov* no later than September 15, 2021.

Any member of the public who wishes to participate in the virtual meeting may use the following Microsoft Teams Meeting Link:

Join On Your Computer or Mobile App: *https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19%253ameeting_YWU0NDk0MDAtZDI4Yy00OGQwLWJmYjItNGM2MmEwMTc0Yjcw%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522e95f1b23-abaf-45ee-821d-b7ab251ab3bf%2522%252c%2522Oid%2522%253a%2522b857b6c6-44d8-46b4-8041-6e7d50b9890a%2522%257d&data=04%7C01%7C%7Cfe352c66d4f049d0c4c708d955e1c9c2%7Ce95f1b23abaf45ee821db7ab251ab3bf%7C0%7C0%7C637635250496605736%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=73mKVfVfn7BlfUyGQW05uib2vTj5BsyTaMksw6Wxgg4%3D&reserved=0.*

Or Call-In (audio only): Phone: 1–872–701–0185, Code: 900828404#.

Dated: August 11, 2021.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–17530 Filed 8–16–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0386]

Agency Information Collection Activity: Interest Rate Reduction Refinancing Loan Worksheet

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 18, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0386'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0386'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Interest Rate Reduction Refinancing Loan Worksheet (VA 26–8923).

OMB Control Number: 2900–0386.

Type of Review: Revision.

Abstract: VA is revising this information collection to incorporate regulatory collection requirements previously captured under OMB control number 2900–0601. The purpose is to consolidate information collection requirements applicable only for interest rate reduction refinance loans (IRRRLs) under one information collection package.

Affected Public: Individuals and households.

Estimated Annual Burden: 156,735 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Frequency of response is generally one time per IRRRL.

Estimated Number of Respondents: 662,165.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–17526 Filed 8–16–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Veterans Health Administration, Department of Veterans Affairs (VA).

ACTION: Notice of a modified system of records.

SUMMARY: As required by the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is modifying the system of records entitled ''Enrollment and Eligibility Records-VA'' (147VA10NF1) as set forth in the **Federal Register**. This system of records notice is removing all elements of the Program of Comprehensive Assistance for Family Caregivers and the Program of General Caregiver Support Services established by the Caregivers and Veterans Omnibus Health Services Act of 2010, signed into law on May 5, 2010. Information pertaining to caregivers is now located within a new system of records entitled, ''Caregiver Support Program-Caregiver Record Management Application (CARMA)-VA'' (197VA10). VA is amending the system by revising the System Number; System Location; Categories of Individuals Covered by the System; System Manager; Record Source Categories; Routine Uses of Records Maintained in the System; Policies and Practices for Retrievability of Records; Policies and Practices for Retention and Disposal of Records; and Physical, Procedural, and Administrative Safeguards. VA is republishing the system notice in its entirety.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective

a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to ''Enrollment and Eligibility Records-VA (147VA10NF1)''. Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; telephone (704) 245–2492 (Note: not a toll-free number).

SUPPLEMENTARY INFORMATION: The System Number will be changed from 147VA10NF1 to 147VA10 to reflect the current VHA organizational routing symbol.

The System Location and Record Source Categories are being updated to change 24VA10P2 to 24VA10A7 and 79VA10P2 to 79VA10.

Categories of Individuals Covered by the System is being amended to include non-Veteran, survivors, and VA Fourth Mission.

The System Manager is being amended to replace Chief Business Officer, 1722 I Street, with Deputy Under Secretary for Health and Operations, VHA Member Services 810 Vermont Avenue NW, Washington, DC 20420.

The Routine Uses of Records Maintained in the System has been amended by modifying the language in Routine Use #6 which states that disclosure of the records to the Department of Justice (DoJ) is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. This routine use will now state that VA may disclose information to the Department of Justice (DoJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her official capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components,

is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings, provided, however, that in each case VA determines the disclosure is compatible with the purpose for which the records were collected. If the disclosure is in response to a subpoena, summons, investigative demand, or similar legal process, the request must meet the requirements for a qualifying law enforcement request under the Privacy Act, 5 U.S.C. 552a(b)(7), or an order from a court of competent jurisdiction under 552a(b)(11).

Routine Use #7 is being amended to remove General Services Administration.

Routine Use #13 has been amended by clarifying the language to state, ''VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.''

Routine Use #14 is being amended to include non-Veterans receiving VA medical care under VA's Fourth Mission.

Routine Use #16 is being added to state, ''VA may disclose information from this system of records to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.''

Policies and Practices for Retrievability of Records is being amended to include Electronic Data Interchange Personal Identifier (EDIPI).

Policies and Practices for Retention and Disposal of Records is being amended to remove HEC Records, Optical Disks or Other Electronic Medium will be temporarily deleted when all phases of the Veteran's appeal rights has ended (ten years after the income year for which the means test verification was conducted) (N1–15–98–3, item 2). All Ad-Hoc reports created as part of this system shall be managed per NARA approved GRS 3.2 Items 030, Ad-Hoc reports. This section will include sections 1250.1 and 1250.2 and 1250.3; 1250.1 destroy 7 years after the income year for which the means test verification was conducted, when all phases of Veteran's appeal rights have ended. If an appeal is filed, retain record until all phases of the appeal have ended; 1250.2, destroy 30 days after the data has been validated as being a true copy of the original data; and 1250.3, destroy when no longer needed.

Physical, Procedural, and Administrative Safeguards (Access) is being amended to replace the HEC Legacy system with Administrative Data Repository. Item 2 will include that employees are required to have completed ''VA Privacy and Information Security Awareness and Rules of Behavior (VA 10176)'' training, and ''Privacy and HIPAA Focused Training (VA 10203)'' to request and be granted access to the Enrollment Systems. There is also a user agreement notification that all users must attest to.

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Dominic A. Cussatt, Acting Assistant Secretary of Information and Technology and Chief Information Officer, approved this document on July 2, 2021 for publication.

Dated: August 11, 2021.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Enrollment and Eligibility Records-VA (147VA10)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the Health Eligibility Center (HEC) in Atlanta, Georgia; the Austin Information Technology Center (AITC) in Austin, Texas; at each VA health care facility as described in the VA system of records entitled ''Patient Medical Records-VA'' (24VA10A7); and at the Veteran Health Identification Card (VHIC) located at the AITC and 3M Cogent, Inc. Electronic and magnetic records are also stored at contracted facilities for storage and back-up purposes.

SYSTEM MANAGER(S):

Official responsible for policies and procedures: Deputy Under Secretary for Health and Operations, VHA Member Services (10NF), VA Central Office, 810 Vermont NW, Washington, DC 20420. Official maintaining the system: Director, Health Eligibility Center, 2957 Clairmont Road, Atlanta, GA 30329.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 28, United States Code, title 38, U.S.C., sections 501(a), 1705, 1710, 1722, and 5317.

PURPOSE(S) OF THE SYSTEM:

Information in this system of records is used to establish and maintain applicants' records necessary to support the delivery of health care benefits; establish applicants' eligibility for VA health care benefits; operate an annual enrollment system; provide eligible Veterans with an identification card; collect from an applicant's health insurance provider for care of their nonservice—connected conditions; provide educational materials related to VA health care benefits, respond to Veteran and non-Veteran inquiries related to VA health care benefits, and compile management reports.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records contain information on individuals who have applied for or who have received VA health care benefits under Title 38 United States Code (U.S.C.), Chapter 17, the records also include Veterans, non-Veterans, caregivers, their spouses, dependents, and survivors as provided for in other provisions of Title 38, U.S.C or VA's Fourth Mission.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in this system may include: Medical benefit applications; eligibility and enrollment information, to include information obtained from Veterans Benefits Administration's automated records, such as the ''Compensation, Pension, Education and Rehabilitation Records-VA'' (58VA21/22), and VHIC information including applicant's name, address(es), date of birth, Member ID number—which is Department of Defense's Electronic Data Interchange Personal Identifier (EDIPI), Plan ID, special awards and Branch of Service, Internal Control Number (ICN), applicant's image, preferred facility and facility requesting a VHIC, names, addresses and phone numbers of persons to contact in the event of a medical emergency, family information including spouse and dependent(s) name(s), address(es) and Social Security Number; applicant and spouse's employment information, including occupation, employer(s) name(s) and address(es); financial information concerning the applicant and the applicant's spouse including family income, assets, expenses, debts; third party health plan contract information, including health insurance carrier name and address, policy number and time period covered by policy; facility location(s) where treatment is provided; type of treatment provided (*i.e.,* inpatient or outpatient); information about the applicant's military service (*e.g.,* dates of active duty service, dates and branch of service, and character of discharge, combat service dates and locations, military decorations, POW status and military service experience including exposures to toxic substances); information about the applicant's eligibility for VA compensation or pension benefits, and the applicant's enrollment status and enrollment priority group. These records also include, but are not limited to, individual correspondence provided to the HEC by Veterans, their family members and Veterans' representatives, such as Veteran Service Officers (VSO); copies of death certificates; DD Form 214, ''Certificate of Release or Discharge from Active Duty''; disability award letters; VA and other pension applications; VA Form 10–10EZ, ''Application for Health Benefits''; VA Form 10–10EZR, ''Health Benefits Renewal''; VA Form 10–10EC, ''Application for Extended Care Services''; and workers compensation forms.

RECORD SOURCE CATEGORIES:

Information in the systems of records may be provided by the applicant; applicant's spouse or other family members or accredited representatives or friends; Veterans, health insurance carriers; other Federal agencies; ''Patient Medical Records-VA'' (24VA10A7) system of records; ''Veterans Health Information System and Technology Architecture (VistA) Records-VA'' (79VA10); ''Income Verification Records-VA'' (89VA10NB); and Veterans Benefits Administration automated record systems, including ''Veterans and Beneficiaries Identification and Records Location Subsystem-VA'' (38VA23) and the ''Compensation, Pension, Education and Rehabilitation Records-VA'' (58VA21/22).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR parts 160 and 164, *i.e.,* individually identifiable health information, and 38 U.S.C. 7332, *i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia, or infection with the Human Immunodeficiency Virus, that information may not be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR parts 160 and 164 permitting disclosure.

1. VA may disclose information relevant to a claim of a Veteran or beneficiary, such as the name, address, the basis and nature of a claim, amount of benefit payment information, medical information, and military service and active duty separation information, only at the request of the claimant to accredited service organizations, VA-approved claim agents, and attorneys acting under a declaration of representation, so that these individuals can aid claimants in the preparation, presentation, and prosecution of claims under the laws administered by VA.

2. VA may disclose information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law. The disclosure

of the names and addresses of Veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

3. VA may disclose information in the course of presenting evidence to a court, magistrate, or administrative tribunal; in matters of guardianship, inquests, and commitments; to private attorneys representing Veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with court-required duties.

4. VA may disclose information to a fiduciary or guardian ad litem in relation to his or her representation of a claimant in any legal proceeding as relevant and necessary to fulfill the duties of the fiduciary or guardian ad litem.

5. VA may disclose information to attorneys, insurance companies, employers, third parties liable or potentially liable under health plan contracts, and courts, boards, or commissions as relevant and necessary to aid VA in the preparation, presentation, and prosecution of claims authorized by law.

6. VA may disclose information to the Department of Justice (DoJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(e) VA or any component thereof;

(f) Any VA employee in his or her official capacity;

(g) Any VA employee in his or her official capacity where DoJ has agreed to represent the employee; or

(h) The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

7. VA may disclose information to NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

8. VA may disclose name(s) and address(es) of present or former members of the armed services or their beneficiaries: (1) To a nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under Title 38, or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such organization, agency, or instrumentality has made a written request for such name(s) or address(es) be provided for a purpose authorized by law, provided that the records will not be used for any purpose other than that stated in the request and that the organization, agency, or instrumentality is aware of the penalty provision of 38 U.S.C. 5701(f).

9. VA may disclose information as is reasonably necessary to identify such individual or concerning that individual's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the Department, to a consumer reporting agency for the purpose of locating the individual, obtaining a consumer report to determine the ability of the individual to repay an indebtedness to the United States, or assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 57019(g)(2) and (4) have been met.

10. VA may disclose information to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

11. VA may disclose information to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

12. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

13. VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

14. VA may disclose identifying information, including Social Security Number of Veterans, spouse(s) of Veterans, dependents of Veterans, and non-Veterans may be disclosed to other Federal and/or State agencies for purposes of conducting computer matches, to obtain information to determine or verify eligibility of Veterans or non-Veterans who are receiving VA benefits or medical care under Title 38 U.S.C. or VA's Fourth Mission.

15. VA may disclose the name and VHIC image of a missing patient from a VA health care facility to local law enforcement for the purpose of assisting in locating the missing patient.

16. VA may disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on magnetic tape, magnetic disk, optical disk and paper at the HEC, VHIC databases, VA medical centers, the 3M Cogent, Inc. databases, AITC, contract facilities, and at Federal Record Centers. In most cases, copies of back-up computer files are maintained at off-site locations and/or agencies with whom VA has a contract or agreement to perform such services, as VA may deem practicable.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, and/or Social Security Number, ICN, EDIPI, military service number, claim folder number, correspondence tracking number, internal record number, facility number, or other assigned identifiers of the individuals on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Per Records Control Schedule (RCS) 10–1 January 2020; use Health Eligibility Center disposition schedules 1250.1, 1250.2 and 1250.3. For 1250.1, destroy 7 years after the income year for which the means test verification was conducted, when all phases of Veteran's appeal rights have ended. If an appeal is filed, retain record until all phases of the appeal have ended; 1250.2, destroy 30 days after the data has been validated as being a true copy of the original data; and 1250.3, destroy when no longer needed.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. Data transmissions between VA health care facilities, the Health Eligibility Center (HEC), the AITC, 3M Cogent, Inc. databases are accomplished using the Department's secure wide area network. The software programs automatically flag records or events for transmission based upon functional requirements. Server jobs at each facility run continuously to check for data to be transmitted and/or incoming data which needs to be parsed to files on the receiving end. All messages containing data transmissions include header information that is used for validation purposes. The recipients of the messages are controlled and/or assigned to the mail group based on their role or position. Consistency checks in the software are used to validate the transmission and electronic acknowledgment messages are returned to the sending application. VA's Office of Cyber Security has oversight responsibility for planning and implementing computer security.

2. Working spaces and record storage areas at HEC, Austin Information Technology Center, and the Veteran Health Identification Card (VHIC) processing locations are secured during all business hours, as well as during non-business hours. All entrance doors require an electronic pass card, for entry when unlocked, and entry doors are locked outside normal business hours. Visitors to the HEC are required to present identification, sign-in at a specified location, and are issued a pass card that restricts access to non-sensitive areas. Visitors to the HEC are escorted by staff through restricted areas. At the end of the visit, visitors are required to turn in their badge. The building is equipped with an intrusion alarm system, which is activated during non-business hours. This alarm system is monitored by a private security service vendor. The office space occupied by employees with access to Veteran records is secured with an electronic locking system, which requires a card for entry and exit of that office space. Access to the AITC is generally restricted to AITC staff, VA Central Office employees, custodial personnel, Federal Protective Service and authorized operational personnel through electronic locking devices. All other persons gaining access to the computer rooms are escorted.

3. Access to the VHIC contractor secured work areas is also controlled by electronic entry devices, which require a card and manual input for entry and exit of the production space. The VHIC contractor's building is also equipped with an intrusion alarm system and a security service vendor monitors the system.

4. Contract employees are required to sign a Business Associates Agreement as required by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule as acknowledgement of mandatory provisions regarding the use and disclosure of protected health information. Employee and contractor access is deactivated when no longer required for official duties or upon termination of employment. Recurring monitors are in place to ensure compliance with nationally and locally established security measures.

5. Beneficiary's enrollment and eligibility information is transmitted from the Enrollment and Eligibility information system to VA health care facilities over the Department's secure computerized electronic communications system.

6. Only specific key staff have authorized access to the computer room. Programmer access to the information systems is restricted only to staff whose official duties require that level of access.

7. On-line data reside on magnetic media in the HEC and AITC computer rooms that are highly secured. Backup media are stored in the computer room within the same building and only information system staff and designated management staff have access to the computer room. On a weekly basis, backup media are stored in off-site storage by a media storage vendor. The vendor picks up and returns the media in a locked storage container; vendor personnel do not have key access to the locked container. The AITC has established a backup plan for the Enrollment system as part of a required Certification and Accreditation of the information system.

8. Any sensitive information that may be downloaded to personal computers or printed to hard copy format is provided the same level of security as the electronic records. All paper documents and informal notations containing sensitive data are shredded prior to disposal. All magnetic media (primary computer system) and personal computer disks are degaussed prior to disposal or release off-site for repair. The VHIC contractor destroys all Veteran identification data 30 days after the VHIC card has been mailed to the Veteran in accordance with contractual requirements.

9. All new HEC employees receive initial information security and privacy training; refresher training is provided to all employees on an annual basis. The HEC's Information Security Officer performs an annual information security audit and periodic reviews to ensure security of the system. This annual audit includes the primary computer information system, the telecommunication system, and local area networks. Additionally, the Internal Revenue Service performs periodic on-site inspections to ensure the appropriate level of security is maintained for Federal tax data.

10. Identification codes and codes used to access Enrollment and Eligibility information systems and records systems, as well as security profiles and possible security violations, are maintained on magnetic media in a secure environment at the Center. For contingency purposes, database backups on removable magnetic media are stored off-site by a licensed and bonded media storage vendor.

11. Contractors, subcontractors, and other users of the Enrollment and Eligibility Records systems will adhere to the same safeguards and security requirements to which HEC staff must comply.

ACCESS:

1. In accordance with national and locally established data security procedures, access to enrollment information databases (Administrative Data Repository) is controlled by unique entry codes (access and verification codes). The user's verification code is automatically set to be changed every 90 days. User access to data is controlled by role-based access as determined necessary by supervisory and information security staff as well as by management of option menus available to the employee. Determination of such access is based upon the role or position of the employee and functionality necessary to perform the employee's assigned duties.

2. Employees are required to have completed ''VA Privacy and Information Security Awareness and Rules of Behavior (VA 10176)'' training, and ''Privacy and HIPAA Focused Training (VA 10203)'' to request and be granted access to the Enrollment Systems. There is also a user agreement notification that all users must attest to, acknowledging understanding of privacy and confidentiality requirements before gaining access to the system. In addition, all employees receive annual privacy awareness and information security training. Access to electronic records is deactivated when no longer required for official duties. Recurring monitors are in place to ensure compliance with nationally and locally established security measures.

3. Users access to the VHIC database utilizes the national NT network authentication infrastructure. The external VHIC vendor utilizes the One-VA Virtual Private Network secured connection for access to VHIC records.

4. Strict control measures are enforced to ensure that access to and disclosure from all records is limited to VA and the contractor's employees whose official duties warrant access to those files.

5. As required by the provisions of the HIPAA Privacy Rule, 45 CFR parts 160 and 164, access to records by HEC employees is classified under functional category ''Eligibility and Enrollment Staff.''

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of Enrollment and Eligibility Records may write to the Director, Health Eligibility Center, 2957 Clairmont Road, Atlanta, GA 30329.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

NOTIFICATION PROCEDURES:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the Health Eligibility Center. All inquiries must reasonably identify the records requested. Inquiries should include the individual's full name, Social Security number, military service number, claim folder number and return address.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Last full publication provided in 81 FR 45597 dated July 14, 2016.

[FR Doc. 2021–17528 Filed 8–16–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0740]

Agency Information Collection Activity: Request for Substitution of Claimant Upon Death of Claimant (VA Form 21P–0847)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 18, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0740'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0740'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 5121A.

Title: Request for Substitution of Claimant Upon Death of Claimant.

OMB Control Number: 2900–0740.

Type of Review: Extension Without Change of a Previously Approved Collection.

Abstract: VA Form 21P–0847 is used to allow claimants to request substitution for a claimant, who passed away, prior to VA processing a claim to completion. This is only allowed when a claimant dies while a claim or appeal for any benefit under a law administered by the VA is pending. The substitute claimant would be eligible to receive accrued benefits due a deceased claimant under Section 5121(a).

Affected Public: Individuals and households.

Estimated Annual Burden: 1,667 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 20,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–17622 Filed 8–16–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Application for Chapter 23 Burial Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 18, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to

Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 23; 38 U.S.C. 2302.

Title: Application for Chapter 23 Burial Benefits.

OMB Control Number: 2900–NEW.

Type of Review: Request for a NEW control number.

Abstract: A claimant's eligibility for needs-based pension programs are determined in part by countable family income and certain deductible expenses. Under the authority of 38 U.S.C. Chapter 23 ''Burial Benefits,'' including 38 U.S.C. 2302, VA uses the information provided on VA Form 21P–530EZ to evaluate respondents' eligibility for monetary burial benefits, including the burial allowance, plot or internment allowance, and transportation reimbursement. In these situations, VBA uses VA Form 21P–530EZ Application for Burial Benefits, to gather information that is necessary to determine eligibility for income-based benefits and the rate payable; without this information, determination of eligibility would not be possible. The program office submits 21P–530EZ (Under 38 U.S.C. Chapter 23) as a new form for electronic submissions (automation).

The program office requests removal of the 21P–530EZ (Under 38 U.S.C. Chapter 23), from the 2900–0003 series, as the form should have been submitted as a new form and the name has changed, requiring a separate control number.

Affected Public: Individuals and households.

Estimated Annual Burden: 70,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 140,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–17534 Filed 8–16–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0501]

Agency Information Collection Activity: Agency Information Collection Activity: Veterans Mortgage Life Insurance Inquiry

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administrations, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed from Veterans for the proper maintenance of Veterans Mortgage Life Insurance accounts.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 18, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0501'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0501'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Veterans Mortgage Life Insurance Inquiry (VA Form 29–0543).

OMB Control Number: 2900–0501.

Type of Review: Extension of a previously approved collection.

Abstract: The Veterans Mortgage Life Insurance Inquiry solicits information needed from Veterans for the proper maintenance of Veterans Mortgage Life Insurance accounts. The form is authorized by 38 U.S.C. 2106 and 38 CFR 8a.3(e).

Affected Public: Individuals and households.

Estimated Annual Burden: 17 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 200.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–17614 Filed 8–16–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Veterans Health Administration, Department of Veterans Affairs (VA).

ACTION: Notice of a modified system of records.

SUMMARY: Community Care Referrals and Authorization (CCRA) is an enterprise-wide system used by facility community care staff to generate referrals and authorizations for Veterans receiving care in the community. VA community care staff and non-VA staff use this solution to enhance Veteran access to care. CCRA is an integral component of the community care information technology architecture that allows Veterans to receive care from community providers. CCRA also allows Veterans and non-VA medical facilities to request VA authorization of emergent and urgent Veteran care.

DATES: Comments on this modified system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to HealthShare Referral Manager (HSRM)–VA (180VA10D). Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Robert Hassinger, Product Manager, Community Care Referrals and Authorization (CCRA) System, Office of Information and Technology Field Office, 55 Elk Street—3rd Floor, Albany, NY 12210. Telephone number: (518) 449–0600. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: CCRA is an enterprise-wide solution in support of the Veterans Access, Choice, and Accountability Act of 2014 (Pub. L. 113–146) (''Choice Act''), as amended by the VA Expiring Authorities Act of 2014 (Pub. L. 113–175), to generate referrals and authorizations for Veterans receiving care in the community. VA clinical providers and Non-VA clinical providers will access a cloud-based software system to request and refer clinical care for Veterans with Community Care providers. This solution will enhance Veteran access to care by utilizing a common and modern system to orchestrate the complex business of VA referral management.

The CCRA solution is an integral component of the VA Community Care (CC) Information Technology (IT) architecture, and will track and share health care information and correspondence necessary for Veterans to be seen for appropriate and approved episodes of CC. Additionally, CCRA allows Veterans and non-VA-medical facilities to request VA authorization of emergent and urgent Veteran care. The CCRA solution will allow the VA to move to a process that generates standardized referrals and authorizations, according to clinical and business rules.

The CCRA project provides HealthShare Referral manager by InterSystems as the CCRA solution. HealthShare Referral Manager is a commercial off-the-shelf software product that is hosted in an Amazon Web Services (AWS) FedRAMP High Gov cloud and is planned for enterprise integration with VA systems, both inside and outside of CC.

Two additional Routine Uses are listed in this Modified SORN and are detailed in a later section. These Routine Uses directly relate to the referral process utilized by the CCRA solution.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Dominic A. Cussatt, Acting Assistant Secretary of Information and Technology and Chief Information Officer, approved this document on July 2, 2021 for publication.

Dated: August 11, 2021.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

HealthShare Referral Manager (HSRM)-VA (180VA10D)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Amazon Web Services, LLC, 12900 Worldgate Dr, Herndon, VA 20170. Community Care Referrals and Authorization (CCRA) System Product Manager, Office of Information and Technology Field Office, 55 Elk Street—3rd Floor, Albany, NY 12210.

SYSTEM MANAGER(S):

Official responsible for policies and procedures: Program Manager—Project & Portfolio Services (PPS), Business Operations & Administration (BOA) 13BOA8, VHA Office of Community Care, U.S. Department of Veterans Affairs. Telephone number: (720) 234–5234 or (720) 560–1452. (These are not toll-free numbers.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38 United States Code 7301(a); Title 38 United States Code 1703—Veterans Community Care Program; Veterans Access, Choice, and Accountability Act of 2014 (Pub. L. 113–146).

PURPOSE(S) OF THE SYSTEM:

CCRA is an enterprise-wide system used by community care staff to automatically generate referrals and authorizations for all Veterans receiving care in the community. The system is an integral component of the VA community care information technology (IT) architecture, and allows Veterans to receive care from community providers within the Community Care Network through the Veterans Choice Program. The CCRA system allows these providers to view relevant patient and clinical information from Veterans Information Systems and Technology Architecture (VistA). The exchange of health care information and authorizations enhances VA's ability to ensure that Veterans receive the best health care available to address their medical needs. The CCRA system also enabled the VA to move from what is currently a largely manual process to an automated process that generates standardized referrals and authorizations according to clinical and business rules. The automated process

decreases the administrative burden on VA clinical and community care staff members by way of establishing clinical and business pathways that which reflect best processes, consistent outcomes, and reduced turnaround times.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning:

1. Veterans who have applied for health care services under Title 38, United States Code, Chapter 17, and in certain cases members of their immediate families.
2. Individuals examined or treated under contract or resource sharing agreements.
3. Individuals who were provided medical care under emergency conditions for humanitarian reasons.
4. Health care professionals providing examination or treatment to any individuals within VA health care facilities.
5. Healthcare professionals providing examination or treatment to individuals under contract or resource sharing agreements or CC programs, such as Choice.
6. Patients and members of their immediate family, volunteers, maintenance personnel, as well as individuals working collaboratively with VA.
7. Contractors, sub-contractors, contract personnel, students, providers and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information and health information related to:

1. Identifying information (*e.g.,* name, birth date, death date, admission date, discharge date, gender, social security number, taxpayer identification number); address information (*e.g.,* home and/or mailing address, home telephone number, emergency contact information such as name, address, telephone number, and relationship); prosthetic and sensory aid serial numbers; medical record numbers; integration control numbers; information related to medical examination or treatment (*e.g.,* location of VA medical facility providing examination or treatment, treatment dates, medical conditions treated or noted on examination); information related to military service and status.
2. Computer access authorizations, computer applications available and used, information access attempts, frequency and time of use; identification of the person responsible for, currently assigned, or otherwise engaged in various categories of patient care or support of health care delivery.
3. Application, eligibility, and claim information regarding payment determination for medical services provided to VA beneficiaries by non-VA health care institutions and providers.
4. Health care provider's name, address, and taxpayer identification number, correspondence concerning individuals and documents pertaining to claims for medical services, reasons for denial of payment, and appellate determinations.

RECORD SOURCE CATEGORIES:

The Veteran or other VA beneficiary, family members or accredited representatives, and other third parties; private medical facilities and healthcare professionals; health insurance carriers; other Federal agencies; employees; contractors; VHA facilities and automated systems providing clinical and managerial support at VA health care facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Congress

VA may disclose information to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. Data Breach Response and Remediation, for VA

VA may disclose information to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records, (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. Data Breach Response and Remediation, for Another Federal Agency

VA may disclose information to another Federal agency or Federal entity, when VA determines that the information is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. Law Enforcement

VA may disclose information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

5. DoJ for Litigation or Administrative Proceeding

VA may disclose information to the Department of Justice (DoJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her official capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

6. Contractors

VA may disclose information to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

7. OPM

VA may disclose information to the Office of Personnel Management (OPM) in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

8. EEOC

VA may disclose information to the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment

programs, or other functions of the Commission as authorized by law.

9. FLRA

VA may disclose information to the Federal Labor Relations Authority (FLRA) in connection with: the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised; matters before the Federal Service Impasses Panel; and the investigation of representation petitions and the conduct or supervision of representation elections.

10. MSPB

VA may disclose information to the Merit Systems Protection Board (MSPB) and the Office of the Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. NARA

VA may disclose information to NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

12. Health Care Providers, for Referral by VA

VA may disclose information to: (1) A federal agency or health care provider when VA refers a patient for medical and other health services, or authorizes a patient to obtain such services and the information is needed by the federal agency or health care provider to perform the services; or (2) a federal agency or to health care provider under the provisions of 38 U.S.C. 513, 7409, 8111, or 8153, when treatment is rendered by VA under the terms of such contract or agreement or the issuance of an authorization, and the information is needed for purposes of medical treatment or follow-up, determination of eligibility for benefits, or recovery by VA of the costs of the treatment.

13. Health Care Provider, for Referral to VA

VA may disclose information to a non-VA health care provider when that health care provider has referred the individual to VA for medical or other health services.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

CCRA relies on information in VistA, and only collects information related to referrals. Referral information is maintained as part of the individual's electronic health care record in accordance with the rules applied to those records. The CCRA system is hosted in Amazon Web Services (AWS) Government Cloud (GovCloud) infrastructure as a service cloud computing environment that has been authorized at the high-impact level under the Federal Risk and Authorization Management Program (FedRAMP). The secure site-to-site encrypted network connection is limited to access via the VA trusted internet connection (TIC).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, social security number or other assigned identifiers of the individuals on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These patient appointment and appointment schedules records shall be maintained per Record Control Schedule (RCS) 10–1 item; 2201.1. According to General Records Schedule (GRS) 5.1 item 010, DAA–GRS–2017–0003–0001, temporary destroy transitory records, messages coordinating schedules, appointments, and events when no longer needed for business use, or according to agency predetermined time or business rule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. CCRA has physical controls and securely stores digital and non-digital media defined within the latest revision of NIST SP 800–88, Guidelines for Media Sanitization, and VA 6500, within controlled areas; and protects information system media until the media is destroyed or sanitized using approved equipment, techniques, and procedures.

2. The CCRA system is hosted in Amazon Web Services (AWS) Government Cloud (GovCloud) infrastructure as a service cloud computing environment that has been authorized at the high-impact level under the Federal Risk and Authorization Management Program (FedRAMP). The secure site-to-site encrypted network connection is limited to access via the VA trusted internet connection (TIC).

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of records in this system may write, call or visit the VA facility location where medical care was provided or VHA Office of Community Care.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

NOTIFICATION PROCEDURES:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to review the contents of such record, should submit a written request or apply in person to the last VA health care facility where care was rendered. All inquiries must reasonably describe the portion of the medical record involved and the place and approximate date that medical care was provided. Inquiries should include the patient's full name, social security number, and return address.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

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